

## Substance Abuse Treatment for Pregnant Women

This act specifies that any pregnant woman referred for drug abuse or drug dependence treatment at any treatment resource that receives public funding would be a priority user of available treatment. The department of mental health and substance abuse services must ensure that family-oriented drug abuse or drug dependence treatment is available, as appropriations allow. A treatment resource that receives public funds may not refuse to treat a person solely because the person is pregnant as long as appropriate services are offered by the treatment resource.

If during prenatal care, the attending obstetrical provider determines by the 20th week of pregnancy that the patient has used prescription drugs which may place the fetus in jeopardy, and drug abuse or drug dependence treatment is indicated, then the provider must encourage counseling, drug abuse or drug dependence treatment and other assistance to the patient. If the patient initiates drug abuse treatment or drug dependence treatment based upon a clinical assessment prior to her next regularly-scheduled prenatal visit and maintains compliance with such treatment based on a clinical assessment as well as prenatal care throughout the remaining term of the pregnancy, then the department of children's services may not file any petition to terminate the mother's parental rights or otherwise seek protection of the newborn solely because of the patient's use of prescription drugs for non-medical purposes during the term of her pregnancy.

Any physician or other health care provider who does not recognize that the pregnant woman has used prescription drugs that place the fetus in jeopardy, or who complies with the provisions of this act, or any physician or facility that initiates substance abuse treatment consistent with community standards of care pursuant to this bill, would be presumed to be acting in good faith and would have immunity from any civil liability that might otherwise result by reason of such actions, if a reasonable inquiry has been made to determine whether the fetus was in jeopardy.

Submitted as:

Tennessee

[SB 459](#)

Status: Signed into law on May 14, 2013.

### Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] Safe Harbor Act.

2

3 Section 2. [*Safe Harbor*]

4 (1) A pregnant woman referred for drug abuse or drug dependence treatment at any treatment  
5 resource that receives public funding shall be a priority user of available treatment. All  
6 records and reports regarding such pregnant woman shall be kept confidential. The  
7 [department of mental health and substance abuse services] shall ensure that family-oriented  
8 drug abuse or drug dependence treatment is available, as appropriations allow. A treatment

1 resource that receives public funds shall not refuse to treat a person solely because the person  
2 is pregnant as long as appropriate services are offered by the treatment resource.

3 (2) If during prenatal care, the attending obstetrical provider determines no later than the end of  
4 the twentieth week of pregnancy that the patient has used prescription drugs which may place  
5 the fetus in jeopardy, and drug abuse or drug dependence treatment is indicated, the provider  
6 shall encourage counseling, drug abuse or drug dependence treatment and other assistance to  
7 the patient.

8 (A) If the patient initiates drug abuse or drug dependence treatment based upon a clinical  
9 assessment prior to her next regularly scheduled prenatal visit and maintains  
10 compliance with both drug abuse or drug dependence treatment based on a clinical  
11 assessment as well as prenatal care throughout the remaining term of the pregnancy,  
12 then the department of children's services shall not file any petition to terminate the  
13 mother's parental rights or otherwise seek protection of the newborn solely because  
14 of the patient's use of prescription drugs for non-medical purposes during the term of  
15 her pregnancy.

16 (B) Notwithstanding subdivision (2)(A), nothing shall prevent the [department of  
17 children's services] from filing any petition to terminate the mother's parental rights  
18 or seek protection of the newborn should the department determine that the  
19 newborn's mother, or any other adult caring for the newborn, is unfit to properly care  
20 for such child.

21 (3) Any physician or other health care provider who does not recognize that the pregnant woman  
22 has used prescription drugs that place the fetus in jeopardy after a reasonable inquiry, or who  
23 complies with the provisions of this subsection, or any physician or facility that initiates  
24 substance abuse treatment consistent with community standards of care pursuant to this  
25 subsection, shall be presumed to be acting in good faith and shall have immunity from any  
26 civil liability that might otherwise result by reason of such actions.

27 (4) The [commissioner of mental health and substance abuse services] is authorized to  
28 promulgate emergency rules and regulations to effectuate the purposes of this act.  
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30 Section 3. [*Severability.*] Insert severability clause.

31 Section 4. [*Repealer.*] Insert repealer clause.

32 Section 5. [*Effective Date.*] Insert effective date.  
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