

HOW PRENATAL SUBSTANCE USE LAWS INADVERTENTLY ENDANGER HEALTHY FAMILIES

RISKS OF UNTREATED OPIOID USE DISORDER (OUD) DURING PREGNANCY



Between 2017 and 2020, about 16 percent of deaths during pregnancy or the postpartum period were overdose-related



Untreated OUD is associated with:

- Lack of prenatal care
- Increased risk of stillbirth
- Increased risk of preterm labor
- Risk of neonatal opioid withdrawal syndrome
- Various other complications



Approximately one-third of children in foster care are there because of parental drug use, including during pregnancy

MEDICATIONS FOR OPIOID USE DISORDER (MOUD) IMPROVE OUTCOMES FOR BOTH CHILD AND MOTHER

BENEFITS TO MOTHER

Reduced cravings and withdrawal symptoms

Reduced overdose risk

Improved treatment retention

Reduced use of illegal drugs

Increased likelihood of continuing treatment after birth

Family more likely to stay together



BENEFITS TO FETUS/CHILD

Reduced risk of preterm birth

Reduced risk of low birth weight

More well-child visits

Lower risk of hospital readmission

Family more likely to stay together

HARMS ASSOCIATED WITH POLICIES PENALIZING PRENATAL DRUG USE

TO FETUS/INFANT

Lower birth weight

Younger gestational age

Lower Apgar scores

Increased risk of stillbirth

Increased risk of mortality

Greater risk of neonatal abstinence syndrome

Suboptimal prenatal care



TO MOTHER

Increased risk of overdose

Increased risk of mental health issues

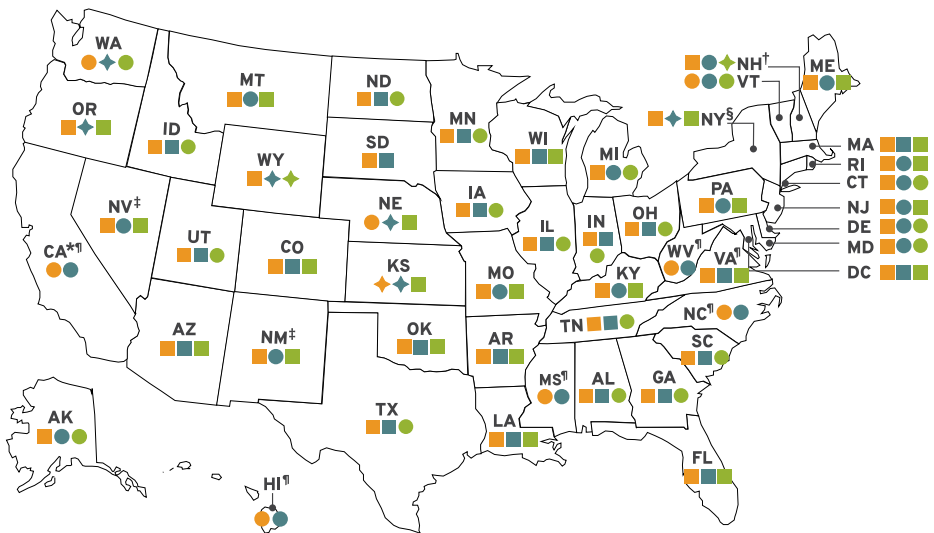
Reduced rates of OUD treatment engagement and motivation

Suboptimal prenatal care

Despite the benefits of MOUD and the harms of penalizing prenatal substance use, pregnant women taking these prescribed medications risk criminal charges and custody loss.

- Between 2016 and 2024, nearly 3,700 women in eight states and Washington, D.C. were reported to child protective services (CPS) solely for taking a prescribed medication for OUD while pregnant.
- From 2022 to 2023, at least 16 women were criminally charged for taking MOUD during pregnancy.

SOME STATES STILL PENALIZE MOUD USE BY PREGNANT WOMEN



Legend

REQUIRES notification or reporting of prenatal substance use

DOES NOT REQUIRE notification or reporting of prenatal substance use

Reporting/notification requirements open to interpretation

Prescribed substances INCLUDED in prenatal substance use reporting/punishment laws

Prescribed substances NOT INCLUDED in prenatal substance use reporting/punishment laws

Prescribed substances in prenatal substance use reporting/punishment laws open to interpretation

Prenatal/parental drug use alone IS child abuse, neglect, or endangerment

Prenatal/parental drug use alone IS NOT child abuse, neglect, or endangerment

Prenatal/parental drug use as child maltreatment open to interpretation

* Mandates local protocols, but not notification or reporting. Plan of Safe Care (POSC) must be developed and the state notified of that, but, per law, this notification does not appear to come with monitoring/surveillance.

† POSC must be developed and CPS notified of that, but, per law, this notification does not appear to come with monitoring/surveillance.

‡ POSC, but it is unclear whether it requires reporting.

§ No laws in place penalizing prenatal substance use.

Source: Data derived from R Street research.