

**SUMMARY OF
GARRETT'S
LAW
REFERRALS**

STATE FISCAL YEAR 2022

ARKANSAS DEPARTMENT OF HUMAN SERVICES DIVISION OF CHILDREN AND FAMILY SERVICES

September 2022



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I. INTRODUCTION

The 2005 Regular Session of the 85th General Assembly of the Arkansas Legislature expanded the legal definition of child neglect in the state of Arkansas. Under the provisions of Act 1176, the term “neglect” was expanded to include the following.

The causing of a newborn child to be born with:

- a. An illegal substance present in the newborn’s bodily fluids or bodily substances as a result of the pregnant mother’s knowingly using an illegal substance before the birth of the child; or*
- b. A health problem as a result of the pregnant mother’s use before birth of an illegal substance.*

Garrett’s Law (GL), named after a child who was born under such circumstances, was modified by Act 284 of the 2007 legislative session. “Health problem” was eliminated from the definition of neglect but was replaced by “the presence of an illegal substance in the mother’s bodily fluids or bodily substances.” As a result of this change (which went into effect July 1, 2007), the presence of an illegal substance, including prescription drugs, in either the newborn or the birthing parent is sufficient cause to substantiate an allegation of neglect under GL. Act 284 also stipulated that mothers cited in GL reports would not be listed in the state’s Child Maltreatment Central Registry, even if the report was substantiated. This change was made in response to concerns that listing these mothers in the registry might have negative consequences on their employment prospects.

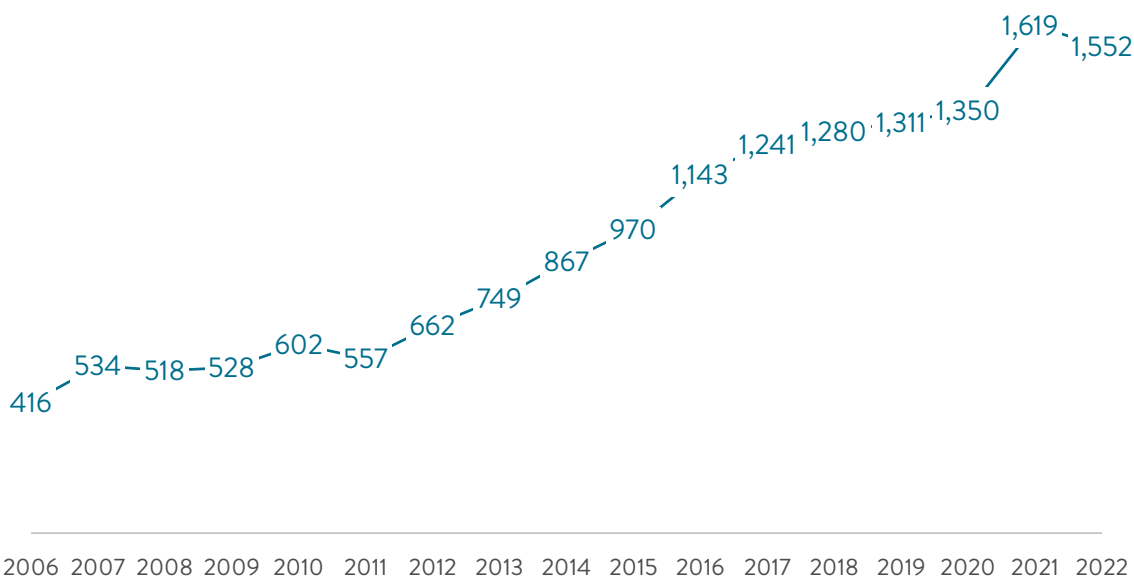
The following summarizes information on GL reports received during state fiscal year (SFY) 2022. As in previous years’ reports, much of the data for 2022 are compared with data from the preceding three fiscal years.

II. GARRETT’S LAW REPORTS RECEIVED

Figure 1 displays the number of GL reports received annually since the law’s inception 17 years ago. During SFY 2022, 1,552 GL reports were received,¹ which was 4% lower than the number received during the previous year. Even with this decline, the number of GL reports has increased, on average, by 9% per year from SFY 2006 onward. Overall, the number of GL reports received annually has nearly quadrupled since SFY 2006.

¹ Throughout this report, “GL reports” refers only to GL reports accepted for an investigation.

Figure 1
Garrett's Law Referrals Received
SFY 2006–2021



Appendix Table A lists the number of GL reports received by county and DCFS service area, while Figure A is a map outlining the counties that make up each service area.

III. CHARACTERISTICS OF GARRETT'S LAW REPORTS

Act 1176 requires that an annual report be delivered to the Legislature. The report includes the following characteristics of GL reports.

- Ages of mothers involved in the reports.
- Types of illegal substances to which newborns were allegedly exposed.
- Estimated gestational ages of newborns.
- Any health problems observed in newborns.

The age distribution of birthing parents involved in GL reports differs only slightly year to year. Overall, mothers are generally younger than 30 years old at the time of the child’s birth (Table 1). For SFY 2022, the median age of all GL mothers was 26 (not shown).

TABLE 1				
AGE DISTRIBUTION OF MOTHERS IN GL REPORTS				
SFY 2019–2022				
MOTHER’S AGE	2019	2020	2021	2022
Younger Than 20 Years	6%	7%	8%	9%
20 to 24 Years	32%	31%	32%	31%
25 to 29 Years	30%	32%	30%	28%
30 to 34 Years	21%	22%	21%	22%
35 to 39 Years	10%	7%	7%	9%
40 Years or Older	1%	1%	2%	1%
Total	100%	100%	100%	100%
Number of Reports	1,311	1,350	1,619	1,552

Of the 1,552 birthing parents cited in GL reports for SFY 2022, 323 (21%) were prior offenders of child maltreatment and 238 (15%) were prior offenders of GL. These percentages closely resembled those cited in GL reports during the previous year.

Marijuana, including THC and cannabis, was cited in 80% of GL reports for SFY 2022. This was followed by amphetamines/methamphetamines at 24% and opiates (e.g., heroin, morphine, codeine, and oxycodone) at 8%. Benzodiazepines (e.g., prescription drugs such as Xanax and Valium) were the fourth most commonly cited drug (5%), followed by cocaine (2%). Barbiturates, hallucinogens, and non-categorized prescription drugs (e.g., tricyclics) are rarely identified in GL reports (Table 2).

TABLE 2				
PERCENTAGE OF GL REPORTS IN WHICH DRUG WAS CITED				
SFY 2019–2022				
TYPE OF DRUG	2019	2020	2021	2022
Marijuana	70%	73%	75%	80%
Amphetamines/Methamphetamines	27%	27%	26%	24%
Opiates	11%	11%	10%	8%
Benzodiazepines	8%	6%	5%	5%
Cocaine	4%	4%	3%	2%
Barbiturates	1%	2%	1%	1%

TABLE 2				
PERCENTAGE OF GL REPORTS IN WHICH DRUG WAS CITED				
SFY 2019–2022				
TYPE OF DRUG	2019	2020	2021	2022
Hallucinogens	1%	1%	1%	1%
Prescriptions*	<1%	1%	<1%	<1%
Number of Times Drugs Were Cited†	1,602	1,659	1,958	1,862
Number of Reports	1,311	1,350	1,619	1,552

*Includes drugs not categorized elsewhere.

†Multiple drugs can be mentioned in a given report.

Regarding the gestational age of newborns in GL reports, 24% were born prematurely during SFY 2022, similar to previous years (Table 3).²

TABLE 3				
GESTATIONAL AGE DISTRIBUTION OF NEWBORNS IN GL REPORTS				
SFY 2019–2022				
GESTATIONAL AGE	2019	2020	2021	2022
Full Term*	77%	77%	77%	76%
Premature†	23%	23%	23%	24%
Total	100%	100%	100%	100%
Number of Reports	1,311	1,350	1,619	1,552

*Defined as a gestational age of at least 37 weeks.

†Defined as a gestational age of younger than 37 weeks.

Among newborns reportedly exposed to substances in utero, 76% did not have any reported health problems, similar to the previous year. Approximately 13% required treatment in a neonatal intensive care unit (NICU), 16% suffered from respiratory distress or other respiratory problems, and 3% exhibited drug-related withdrawal symptoms (Table 4).

² Reports in which the newborn's gestational age was unknown are excluded from this breakdown.

TABLE 4				
PERCENTAGE OF GL REPORTS IN WHICH HEALTH PROBLEM WAS CITED				
SFY 2019–2022				
HEALTH PROBLEM REPORTED*	2019	2020	2021	2022
No Health Problems	76%	75%	77%	76%
Neonatal Intensive Care Required	13%	13%	10%	13%
Respiratory Distress	11%	9%	11%	16%
Drug-Related Withdrawal Symptoms	6%	5%	4%	3%
Child Died	<1%	<1%	<1%	<1%
All Other Problems†	10%	10%	9%	7%
Number of Reports	1,311	1,350	1,619	1,552

*Multiple health problems can be included in a single report.

†“All other problems” includes a wide range of observed health issues that could not be categorized elsewhere, including conditions such as low blood sugar, heart complication and/or defects, anemia, physical deformity, feeding difficulties, hypoglycemia, and syphilis.

Among the mothers cited in GL reports, those who allegedly used opiates were the most likely to give birth to children with a documented health problem (45%), followed by those who used cocaine (41%). Health problems were also found to a varying extent among newborns whose mothers allegedly used benzodiazepines (38%) and amphetamines/methamphetamines (37%). Birthing parents who allegedly used marijuana were, by far, the least likely (21%) to give birth to children with a health problem.

Regarding specific health problems, newborns whose mothers allegedly used opiates were more likely to spend time in the NICU (25%) than those whose mothers used any other drug. Newborns whose mothers allegedly used opiates were also most likely to experience drug-related withdrawal symptoms (16%).

IV. DCFS RESPONSES TO GARRETT’S LAW REPORTS

This section presents information regarding Arkansas Division of Children and Family Services’ (DCFS) response to GL reports, including the following.

- The percentage of reports that were substantiated after an investigation.

- The percentage of substantiated reports that resulted in opening a child protective services (CPS) case.³
- The percentage of substantiated reports that resulted in removing the newborn from the birthing parent’s custody.

In SFY 2022, 91% of the GL reports received statewide were substantiated, slightly lower than the rate observed for previous years. The substantiation rate among individual service areas ranged from 81% in Area 8 to 98% in Area 6 (Table 5).

TABLE 5				
SUBSTANTIATION RATE OF GL REPORTS BY AREA				
SFY 2019–2022				
AREA	2019	2020	2021	2022
1	86%	82%	88%	84%
2	94%	97%	92%	87%
3	97%	97%	95%	93%
4	93%	98%	98%	97%
5	99%	97%	93%	93%
6	96%	97%	94%	98%
7	90%	90%	96%	95%
8	91%	91%	86%	81%
9	98%	96%	99%	95%
10	89%	94%	93%	97%
State	94%	94%	93%	91%

Statewide, the rate at which DCFS caseworkers opened a CPS case in response to a substantiated finding of a GL report was 94% for SFY 2022, nearly identical to the rates observed in recent years. Whether caseworkers responded to a substantiated GL report by opening a CPS case ranged from 86% in Area 5 to 98% in Area 9 (Table 6).

³ CPS cases include cases in which children remain in the home and cases in which children are placed in foster care.

TABLE 6				
CASE OPENING RATES FOR SUBSTANTIATED GL REPORTS BY AREA				
SFY 2019–2022				
AREA	2019	2020	2021	2022
1	93%	95%	96%	95%
2	99%	95%	95%	96%
3	97%	95%	98%	97%
4	95%	98%	98%	97%
5	93%	92%	80%	86%
6	95%	92%	94%	95%
7	94%	94%	95%	95%
8	97%	94%	97%	91%
9	99%	96%	94%	98%
10	82%	94%	93%	95%
State	95%	94%	94%	94%

Note: In addition to CPS cases opened due to a GL referral, percentages include cases opened prior to the referral *and* still open at the time of the referral. This more accurately represents the percentage of substantiated GL referrals that were handled within the context of an active CPS case.

Statewide, in SFY 2022, 12% of substantiated GL reports resulted in removing the newborn from the mother’s custody, less than the rate observed in previous years. The removal rate varied widely among DCFS service areas. Children in Area 10, for instance, were the least likely to be removed from their homes as a result of a substantiated GL report (6%), followed by Areas 2 and 8 (9% each). Meanwhile, newborns in Area 9 (16%) were most likely to be removed in response to a substantiated GL report. Compared to the previous year, newborns were less likely to be removed in eight of the 10 areas; Areas 3 (12% to 13%) and 8 (8% to 9%) were the exceptions (Table 7).

TABLE 7				
CHILD REMOVAL RATE FOR SUBSTANTIATED GL REPORTS BY AREA				
SFY 2019–22				
AREA	2019	2020	2021	2022
1	13%	14%	17%	14%
2	15%	11%	10%	9%
3	13%	15%	12%	13%
4	13%	18%	17%	12%
5	14%	11%	15%	13%
6	12%	9%	22%	14%

TABLE 7				
CHILD REMOVAL RATE FOR SUBSTANTIATED GL REPORTS BY AREA				
SFY 2019–22				
AREA	2019	2020	2021	2022
7	15%	14%	27%	11%
8	16%	9%	8%	9%
9	25%	24%	19%	16%
10	8%	8%	8%	6%
State	14%	13%	15%	12%

The rate at which children were removed in response to a substantiated GL report also fluctuated somewhat at the county level. The comparatively high removal rate observed in Area 8, for example, was largely driven by the decisions made in Greene, Lawrence, and Izard counties, which collectively removed nearly a quarter (11 of 47) of the newborns involved in substantiated GL reports. In comparison, less than 5% (six of 133) were removed in response to substantiated GL reports in the rest of Area 8. Additionally, children were removed at rates noticeably higher than the statewide average in Carroll County (four of 15 removed) in Area 1; Garland County (12 of 77) in Area 3; Miller (seven of 44) in Area 4; Pope (six of 27) and Faulkner (seven of 38) counties in Area 5; Lonoke County (five of 20) in Area 7; White (six of 17) and Poinsett (four of 24) Counties in Area 9; and Ashley County (three of 16) in Area 10.

Several counties exhibited apparent restraint with respect to removing children in response to a true report. Among counties in which at least 10 GL reports were substantiated, newborns from Craighead County were least likely to be removed (74 substantiated reports yielded a single removal). Additionally, less than 7% of victim children from Baxter, Crawford, Hempstead, Hot Spring, Jefferson, and Marion counties were removed in response to the true finding.⁴

An analysis of the substantiated GL reports received during SFY 2021 revealed that 25% of the children who were removed from their homes returned home or were discharged to relatives within 12 months, lower than the rate observed for the previous year (29%).⁵ Among children involved in substantiated GL reports who were not removed from the home immediately, 5% were removed within 12 months, and 4% were cited in a

⁴ Specifically, the percentage of newborns removed in response to a true report was 5% for Baxter, 7% for Boone, 6% for Craighead, 8% for Crawford, 6% for Crittenden, 8% for Mississippi, 6% for Phillips, 10% for Pope, 8% for Sebastian, and 10% for St. Francis.

⁵ The analysis was limited to SFY 2021 to allow a sufficient follow-up period of 12 months for all children cited in GL reports. Sufficient time has not passed for the affected newborns for whom a report was received during SFY 2022.

subsequent substantiated maltreatment report over the same period. These figures were similar to those reported for the previous year (6% and 4%, respectively).

V. SUMMARY

This report reviewed select characteristics of GL reports and the DCFS response to those reports for SFY 2022 and several preceding years, as appropriate. The highlights of this report are presented below.

- During SFY 2022, 1,552 GL reports were accepted for investigation, a 4% decrease from the previous year. Even with this decline, the number of GL reports accepted for investigation has increased, on average, by 9% per year since the law's inception 17 years ago.
- Marijuana was the most commonly mentioned illegal substance in GL reports. For SFY 2022, 80% cited marijuana use, either separately or in combination with other drugs, followed by amphetamines/methamphetamines (24%) and then opiates (8%). Benzodiazepines were cited in 5% of the reports, while cocaine was cited in 2%.
- During SFY 2022, 91% of the GL reports statewide were substantiated, slightly lower than the substantiation rate observed in recent years.
- The rate at which DCFS caseworkers opened a CPS case in response to a substantiated GL report was 94% for SFY 2022, similar to the rates observed for the previous three years.
- DCFS removed 12% of newborns from the birthing parent's custody in response to a true GL report during SFY 2022, similar to recent years. Among the 10 DCFS service areas, Area 10 demonstrated the greatest restraint during the year, removing just 6% of children in response to a substantiated GL report, followed by Areas 2 and 8 (9% each). Conversely, Area 9 exhibited the highest rate of removals in response to a true GL report (16%).
- Of the children removed in response to a substantiated GL report during SFY 2021, 25% either returned home or were discharged to relatives within 12 months. Among those not removed initially, 5% were removed within 12 months and 4% were cited in a subsequent substantiated maltreatment report over the same period.

APPENDIX: GARRETT'S LAW REPORTS BY COUNTY

TABLE A		
GARRETT'S LAW REPORTS RECEIVED DURING SFY 2022 BY COUNTY AND AREA		
AREA	COUNTY	NUMBER OF REPORTS
1	Benton	58
	Carroll	15
	Madison	12
	Washington	89
Area 1 Total		174
2	Crawford	61
	Franklin	10
	Johnson	6
	Logan	16
	Scott	13
	Sebastian	101
	Yell	8
Area 2 Total		215
3	Clark	6
	Garland	84
	Hot Spring	23
	Howard	10
	Montgomery	2
	Perry	2
	Pike	7
	Polk	8
	Saline	32
Area 3 Total		174

TABLE A

GARRETT'S LAW REPORTS RECEIVED DURING SFY 2022 BY COUNTY AND AREA

AREA	COUNTY	NUMBER OF REPORTS
4	Columbia	18
	Hempstead	16
	Lafayette	6
	Little River	7
	Miller	45
	Nevada	8
	Ouachita	18
	Sevier	5
	Union	27
Area 4 Total		150
5	Baxter	31
	Boone	28
	Conway	10
	Faulkner	41
	Marion	28
	Newton	2
	Pope	27
	Searcy	5
	Van Buren	4
Area 5 Total		176
6	Pulaski	122
Area 6 Total		122
7	Bradley	5
	Calhoun	1
	Cleveland	1
	Dallas	1
	Grant	4
	Jefferson	39
	Lincoln	3
	Lonoke	23
	Prairie	0
Area 7 Total		77

TABLE A

GARRETT'S LAW REPORTS RECEIVED DURING SFY 2022 BY COUNTY AND AREA

AREA	COUNTY	NUMBER OF REPORTS
8	Clay	11
	Craighead	96
	Fulton	8
	Greene	32
	Izard	7
	Lawrence	12
	Mississippi	38
	Randolph	9
Sharp	10	
Area 8 Total		223
9	Cleburne	6
	Crittenden	31
	Cross	6
	Independence	23
	Jackson	6
	Poinsett	24
	Stone	9
	White	20
Woodruff	5	
Area 9 Total		130
10	Arkansas	4
	Ashley	16
	Chicot	5
	Desha	7
	Drew	6
	Lee	8
	Monroe	7
	Phillips	29
St. Francis	29	
Area 10 Total		111
TOTAL		1,552

Figure A
Map of DCFS Service Areas

