

# Summary of Garrett's Law Referrals for SFY 2020

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Arkansas Department of Human Services  
Division of Children and Family Services

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## APPENDIX

### Garrett’s Law Reports by County

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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 mother 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.

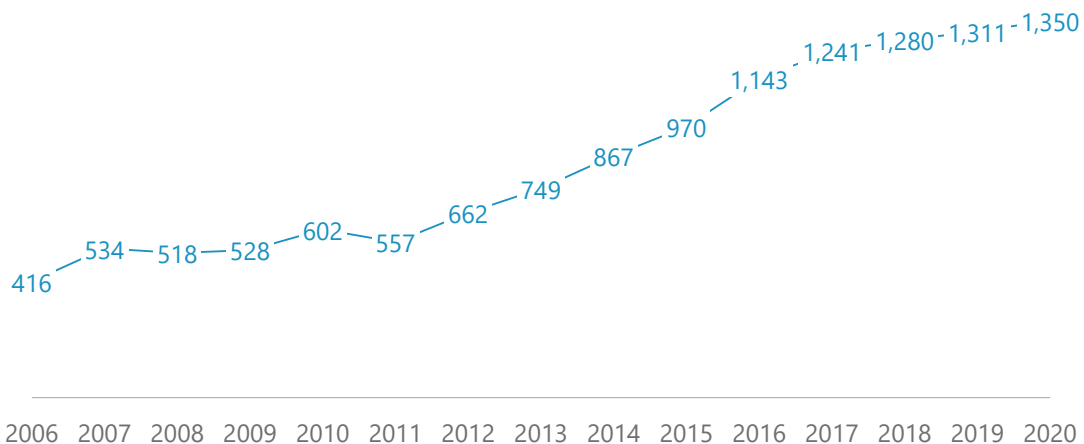
The following summarizes information on GL reports received during state fiscal year (SFY) 2020. As in previous years’ reports, much of the data for 2020 are compared with data from the preceding three fiscal years.

## II. GARRETT'S LAW REPORTS RECEIVED

The number of GL reports accepted for investigation has consistently increased since the law's inception 15 years ago. During SFY 2020, 1,350 GL reports were received,<sup>1</sup> a 3% increase from the previous year. The number of GL reports received annually has more than tripled since SFY 2006. GL reports increased, on average, by 7% per year from SFY 2006 through SFY 2011. The number of GL reports increased at more than twice that rate (an average of 15% per year) from SFY 2012 through SFY 2016 before increasing at a lower rate from SFY 2017 onward (an average of 4% per year; Figure 1).

Figure 1

### Garrett's Law Referrals Received SFY 2006–2020



<sup>1</sup> Throughout this report, "GL reports" refers only to GL reports accepted for an investigation.

Table A in the appendix lists the number of GL reports received by county and service area. A map outlining the counties that make up each service area is shown in Figure A in the appendix.

### 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

Although age distribution of mothers involved in GL reports fluctuates year to year, mothers are generally younger than 30 years old at the time of the child’s birth (Table 1). The median age of all GL mothers was 26 years for SFY 2020 (not shown). The age distribution of the mothers cited in GL reports was similar to previous years.

<b>Table 1</b>				
<b>Age Distribution of Mothers in GL Reports</b>				
<b>SFY 2017–20</b>				
<b>Mother’s Age</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Younger than 20 years	7%	6%	6%	7%
20 to 24 years	32%	32%	32%	31%
25 to 29 years	33%	31%	30%	32%
30 to 34 years	20%	23%	21%	22%
35 to 39 years	7%	7%	10%	7%
40 years or older	1%	1%	1%	1%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
<b>Number of Reports</b>	<b>1,241</b>	<b>1,280</b>	<b>1,311</b>	<b>1,350</b>

Of the 1,350 mothers cited in GL reports for SFY 2020, 268 (20%) were prior offenders of child maltreatment; of the same 1,350 mothers, 172 (13%) were prior offenders of GL.

Marijuana, including THC and cannabis, by far was the most commonly cited drug in GL reports for SFY 2020 (73%; Table 2). The second most commonly cited drug was amphetamines/methamphetamines (27%). Opiates (e.g., heroin, morphine, codeine, and oxycodone) were the third most commonly cited drug (11%). Benzodiazepines (e.g., prescription drugs such as Xanax and Valium) were the fourth most commonly cited drug (6%), followed by cocaine (4%). Barbiturates, hallucinogens, and non-categorized prescription drugs (e.g., tricyclics) are seldom identified in GL reports.

<b>Table 2</b>				
<b>Percentage of GL Reports in Which Drug Was Cited</b>				
<b>SFY 2017–20</b>				
<b>Type of Drug</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Marijuana	66%	65%	70%	73%
Amphetamines/methamphetamines	25%	26%	27%	27%
Opiates	18%	18%	11%	11%
Benzodiazepines	10%	10%	8%	6%
Cocaine	5%	4%	4%	4%
Barbiturates	1%	1%	1%	2%
Hallucinogens	1%	1%	1%	1%
Prescription†	1%	<1%	<1%	1%
<b>Number of drugs cited*</b>	<b>1,552</b>	<b>1,616</b>	<b>1,602</b>	<b>1,659</b>
<b>Number of reports</b>	<b>1,241</b>	<b>1,280</b>	<b>1,311</b>	<b>1,350</b>

\*Multiple drugs can be mentioned in a given report.

† Includes drugs not categorized elsewhere.

Regarding the gestational age distribution of newborns in GL reports, nearly 23% were born prematurely during SFY 2020, similar to previous years (Table 3).<sup>2</sup>

Table 3				
Gestational Age Distribution of Newborns in GL Reports SFY 2017–20				
Gestational Age	2017	2018	2019	2020
Full term*	73%	76%	77%	77%
Premature†	27%	24%	23%	23%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
<b>Number of Reports</b>	<b>1,241</b>	<b>1,280</b>	<b>1,311</b>	<b>1,350</b>

\*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, 75% did not have any reported health problems, similar to the previous year (Table 4). About 13% required treatment in a neonatal intensive care unit (NICU), 9% suffered from respiratory distress or other respiratory problems, and 5% exhibited drug-related withdrawal symptoms.

Table 4				
Percentage of GL Reports in Which Health Problem Was Cited SFY 2017–20				
Health Problem Reported*	2017	2018	2019	2020
No health problems	70%	70%	76%	75%
Neonatal intensive care required	14%	16%	13%	13%
Respiratory distress	13%	11%	11%	9%
Drug-related withdrawal symptoms	5%	6%	6%	5%
Child died	<1%	<1%	<1%	<1%
All other problems†	14%	11%	10%	10%
<b>Number of Reports</b>	<b>1,241</b>	<b>1,280</b>	<b>1,311</b>	<b>1,350</b>

\*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.

<sup>2</sup> Reports in which the newborn’s gestational age was unknown are excluded from this breakdown.

Among the mothers cited in GL reports, those who allegedly used benzodiazepines were the most likely to give birth to children with a documented health problem (48%), followed closely by those who used opiates (46%). Health problems were also found to varying extent among newborns whose mothers allegedly used amphetamines/methamphetamines (39%). Mothers who allegedly used marijuana were the least likely (19%) to give birth to children with a health problem. Newborns whose mothers allegedly used opiates were more likely to spend time in the NICU (23%) or experience drug-related withdrawal symptoms (23%) than those whose mothers used any other drug.

#### **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 percentage of reports that are substantiated after an investigation;
- The percentage of substantiated reports that result in opening a child protective services (CPS) case;<sup>3</sup> and
- The percentage of substantiated reports that result in removing the newborn from the mother's custody.

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



In SFY 2020, 94% of the GL reports received statewide were substantiated, similar to previous years. The substantiation rate among individual service areas ranged from 82% in Area 1 to 98% in Area 4 (Table 5).

<b>Table 5</b>				
<b>Substantiation Rate of GL Reports by Area</b>				
<b>SFY 2017–20</b>				
<b>Area</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
1	88%	84%	86%	82%
2	95%	92%	94%	97%
3	95%	97%	97%	97%
4	92%	96%	93%	98%
5	92%	93%	99%	97%
6	96%	96%	96%	97%
7	83%	96%	90%	90%
8	92%	92%	91%	91%
9	91%	92%	98%	96%
10	96%	82%	89%	94%
<b>State</b>	<b>93%</b>	<b>92%</b>	<b>94%</b>	<b>94%</b>

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 2020, similar to the rates observed in recent years. Whether caseworkers responded to a substantiated GL report by opening a CPS case varied only slightly among individual areas, ranging from 92% in Areas 5 and 6 to a high of 98% in Area 4 (Table 6).

Table 6				
Case Opening Rates for Substantiated GL Reports by Area SFY 2017–20				
Area	2017	2018	2019	2020
1	95%	96%	93%	95%
2	94%	96%	99%	95%
3	97%	98%	97%	95%
4	91%	88%	95%	98%
5	96%	96%	93%	92%
6	93%	94%	95%	92%
7	95%	90%	94%	94%
8	98%	97%	97%	94%
9	96%	93%	99%	96%
10	95%	84%	82%	94%
<b>State</b>	<b>95%</b>	<b>94%</b>	<b>95%</b>	<b>94%</b>

Note: In addition to CPS cases opened due to the 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 2020 just over 13% of substantiated GL reports resulted in removing the newborn from the mother’s custody, lower than the rate observed in previous years (Table 7). The removal rate varied considerably among DCFS service areas. Children in Area 10 were the least likely to be removed from their homes as a result of a substantiated GL report (8%), followed by Areas 6 and 8 (9% each). For the fifth straight year, Area 9 was, by far, the region most likely to have children removed in response to a substantiated GL report (24%); the next closest was Area 4 (18%).

Table 7				
Child Removal Rate for Substantiated GL Reports by Area SFY 2017–20				
Area	2017	2018	2019	2020
1	14%	19%	13%	14%
2	20%	16%	15%	11%
3	9%	7%	13%	15%
4	19%	15%	13%	18%
5	26%	15%	14%	11%
6	18%	8%	12%	9%
7	21%	16%	15%	14%
8	22%	13%	16%	9%
9	29%	28%	25%	24%
10	13%	19%	8%	8%
<b>State</b>	<b>18%</b>	<b>15%</b>	<b>14%</b>	<b>13%</b>

The rate at which children were removed in response to a substantiated GL report also fluctuated somewhat at the county level. The relatively high removal rate observed in Area 9 can largely be attributed to the decisions made in Cross, Jackson, and White counties, which collectively removed 45% (19 of 42) of the children involved in substantiated GL reports. In comparison, less than 13% (11 of 88) were removed in response to substantiated GL reports in the rest of Area 9. Additionally, children were removed at rates noticeably higher than the statewide average in Carroll County (five of 13 removed) in Area 1, Saline County (seven of 22) in Area 3, Miller (seven of 29) and Sevier (six of 10) counties in Area 4, and Greene County (six of 19) in Area 8.

Overall, most counties exhibited restraint with respect to removing children in response to a true report. For instance, newborns from Pulaski, Garland, Washington, Sebastian, Benton, Craighead, and Crittenden counties—the seven counties that substantiated the highest number

of GL reports during the year—were removed at a rate either below or just slightly above the statewide average.<sup>4</sup>

An analysis of the substantiated GL reports received during SFY 2019 revealed that 31% of the children who were removed from their homes returned home or were discharged to relatives within 12 months, slightly lower than the rate observed for the previous year (33%).<sup>5</sup> Among children involved in substantiated GL reports who were not removed from the home immediately, 6% were removed within 12 months, and 4% were cited in a subsequent substantiated maltreatment report over the same period. These figures were similar to those reported for the previous year (5% and 4%, respectively).

## **V. SUMMARY**

This report reviewed select characteristics of GL reports and the DCFS response to those reports for SFY 2020 and several preceding years, as appropriate. The highlights of this report are presented below.

- The number of GL reports accepted for investigation has steadily increased since the law's inception 15 years ago. During SFY 2020, 1,350 GL reports were accepted for investigation, a 3% increase from the previous year.
- Marijuana was the most commonly mentioned illegal substance in GL reports. For SFY 2020, 73% cited marijuana use, either separately or in combination with other drugs, followed by amphetamines/methamphetamines (27%) and then opiates (11%). Benzodiazepines were cited in 6% of the reports, while cocaine was cited in 4%.

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<sup>4</sup> Specifically, the percentage of newborns removed in response to a true report was 9% for Pulaski, 10% for Washington, 15% for Garland, 14% for Sebastian, 13% for Benton, 4% for Craighead, and 5% for Crittenden.

<sup>5</sup> The analysis was limited to SFY 2019 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 2020.

- During SFY 2020, 94% of the GL reports statewide were substantiated, similar to 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 2020, similar to the rates observed for the previous three years.
- Compared with recent years, DCFS demonstrated greater restraint during SFY 2020 with respect to removing newborns from the mother's custody in response to a true GL report. Among the 10 DCFS service areas, Area 10 exhibited the lowest rate of removing children in response to a substantiated GL report, followed by Areas 6 and 8. Conversely, Area 9 exhibited the highest rate of removals in response to a GL report, driven by Cross, Jackson, and White counties.
- Of the children removed in response to a substantiated GL report during SFY 2019, 31% either returned home or were discharged to relatives within 12 months. Among those not removed initially, 6% 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		
GL Reports Received During SFY 2020 by County and Area		
Area	County	Number of Reports
1	Benton	81
	Carroll	14
	Madison	11
	Washington	99
<b>Area 1 Total</b>		<b>205</b>
2	Crawford	34
	Franklin	3
	Johnson	2
	Logan	9
	Scott	3
	Sebastian	74
	Yell	9
<b>Area 2 Total</b>		<b>134</b>
3	Clark	17
	Garland	81
	Hot Spring	23
	Howard	8
	Montgomery	6
	Perry	1
	Pike	4
	Polk	10
	Saline	22
<b>Area 3 Total</b>		<b>172</b>
4	Columbia	6
	Hempstead	14
	Lafayette	1
	Little River	9
	Miller	31
	Nevada	4
	Ouachita	19
	Sevier	10
	Union	14
<b>Area 4 Total</b>		<b>108</b>

Table A		
GL Reports Received During SFY 2020 by County and Area		
Area	County	Number of Reports
5	Baxter	27
	Boone	15
	Conway	4
	Faulkner	46
	Marion	21
	Newton	1
	Pope	23
	Searcy	1
	Van Buren	6
<b>Area 5 Total</b>		<b>144</b>
6	Pulaski	141
<b>Area 6 Total</b>		<b>141</b>
7	Bradley	6
	Calhoun	3
	Cleveland	1
	Dallas	2
	Grant	2
	Jefferson	24
	Lincoln	4
	Lonoke	25
	Prairie	5
<b>Area 7 Total</b>		<b>72</b>
8	Clay	2
	Craighead	59
	Fulton	11
	Greene	21
	Izard	8
	Lawrence	5
	Mississippi	32
	Randolph	3
	Sharp	13
<b>Area 8 Total</b>		<b>154</b>



Table A		
GL Reports Received During SFY 2020 by County and Area		
Area	County	Number of Reports
<b>9</b>	Cleburne	5
	Crittenden	45
	Cross	12
	Independence	15
	Jackson	8
	Poinsett	16
	Stone	5
	White	21
	Woodruff	4
<b>Area 9 Total</b>		<b>131</b>
<b>10</b>	Arkansas	9
	Ashley	6
	Chicot	4
	Desha	4
	Drew	5
	Lee	9
	Monroe	8
	Phillips	17
	St. Francis	27
<b>Area 10 Total</b>		<b>89</b>
<b>TOTAL</b>		<b>1,350</b>

Figure A

Map of DCFS Service Areas

