

SUMMARY OF GARRETT'S LAW REFERRALS

STATE FISCAL YEAR 2021

ARKANSAS DEPARTMENT OF HUMAN SERVICES DIVISION OF CHILDREN AND FAMILY SERVICES

September 2021



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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.

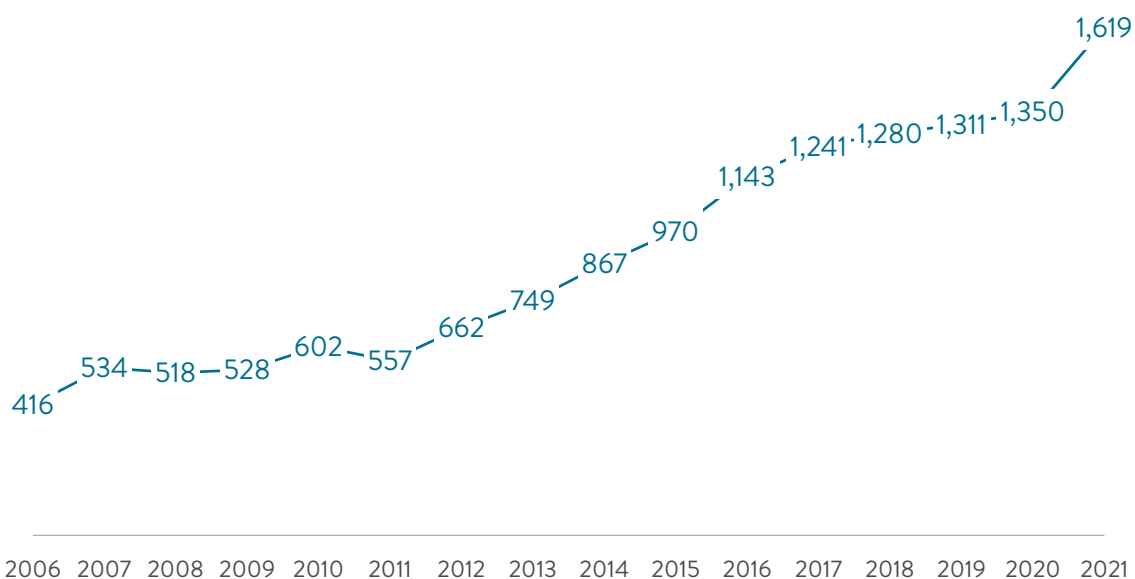
The following summarizes information on GL reports received during state fiscal year (SFY) 2021. As in previous years’ reports, much of the data for 2021 are compared with data from the preceding three fiscal years.

II. GARRETT’S LAW REPORTS RECEIVED

The number of GL reports accepted for investigation has consistently increased since the law’s inception 16 years ago. Figure 1 displays the number of GL reports received each year. On average, the number of GL reports has increased by 10% per year from SFY 2006 onward. During SFY 2021, 1,619 GL reports were received,¹ which was 20% higher than the number received during the previous year. 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

Although age distribution of birthing parents 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 for SFY 2021 (not shown). The age distribution closely resembled that of previous years.

TABLE 1				
AGE DISTRIBUTION OF MOTHERS IN GL REPORTS				
SFY 2018–2021				
MOTHER’S AGE	2018	2019	2020	2021
Younger Than 20 Years	6%	6%	7%	8%
20 to 24 Years	32%	32%	31%	32%
25 to 29 Years	31%	30%	32%	30%
30 to 34 Years	23%	21%	22%	21%
35 to 39 Years	7%	10%	7%	7%
40 Years or Older	1%	1%	1%	2%
Total	100%	100%	100%	100%
Number of Reports	1,280	1,311	1,350	1,619

Of the 1,619 birthing parents cited in GL reports for SFY 2021, 339 (21%) were prior offenders of child maltreatment and 228 (14%) were prior offenders of GL.

Marijuana, including THC and cannabis, was cited in 75% of GL reports for SFY 2021. This was followed by amphetamines/methamphetamines at 26% and opiates (e.g., heroin, morphine, codeine, and oxycodone) at 10%. Benzodiazepines (e.g., prescription drugs such as Xanax and Valium) were the fourth most commonly cited drug (5%), followed by cocaine (3%). 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 2018–2021				
TYPE OF DRUG	2018	2019	2020	2021
Marijuana	65%	70%	73%	75%
Amphetamines/Methamphetamines	26%	27%	27%	26%
Opiates	18%	11%	11%	10%
Benzodiazepines	10%	8%	6%	5%
Cocaine	4%	4%	4%	3%
Barbiturates	1%	1%	2%	1%
Hallucinogens	1%	1%	1%	1%

TABLE 2				
PERCENTAGE OF GL REPORTS IN WHICH DRUG WAS CITED				
SFY 2018–2021				
TYPE OF DRUG	2018	2019	2020	2021
Prescriptions*	<1%	<1%	1%	<1%
Number of Times Drugs Were Cited†	1,616	1,602	1,659	1,958
Number of Reports	1,280	1,311	1,350	1,619

*Includes drugs not categorized elsewhere.

†Multiple drugs can be mentioned in a given report.

Regarding the gestational age of newborns in GL reports, nearly 23% were born prematurely during SFY 2021, similar to previous years (Table 3).²

TABLE 3				
GESTATIONAL AGE DISTRIBUTION OF NEWBORNS IN GL REPORTS				
SFY 2018–2021				
GESTATIONAL AGE	2018	2019	2020	2021
Full Term*	76%	77%	77%	77%
Premature†	24%	23%	23%	23%
Total	100%	100%	100%	100%
Number of Reports	1,280	1,311	1,350	1,619

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

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

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

Among newborns reportedly exposed to substances in utero, 77% did not have any reported health problems, similar to the previous year. About 10% required treatment in a neonatal intensive care unit (NICU), 11% suffered from respiratory distress or other respiratory problems, and 4% exhibited drug-related withdrawal symptoms (Table 4).

TABLE 4				
PERCENTAGE OF GL REPORTS IN WHICH HEALTH PROBLEM WAS CITED				
SFY 2018–2021				
HEALTH PROBLEM REPORTED*	2018	2019	2020	2021
No Health Problems	70%	76%	75%	77%
Neonatal Intensive Care Required	16%	13%	13%	10%
Respiratory Distress	11%	11%	9%	11%
Drug-Related Withdrawal Symptoms	6%	6%	5%	4%
Child Died	<1%	<1%	<1%	<1%
All Other Problems†	11%	10%	10%	9%
Number of Reports	1,280	1,311	1,350	1,619

*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 benzodiazepines were the most likely to give birth to children with a documented health problem (40%), followed closely by those who used amphetamines/methamphetamines (39%). Health problems were also found to a varying extent among newborns whose mothers allegedly used cocaine (36%) and opiates (34%). Birthing parents who allegedly used marijuana were the least likely (19%) to give birth to children with a health problem.

Regarding specific health problems, newborns whose mothers allegedly used cocaine were more likely to spend time in the NICU (22%) than those whose mothers used any other drug. Newborns whose mothers allegedly used benzodiazepines were most likely to experience drug-related withdrawal symptoms (17%).

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

In SFY 2021, 93% of the GL reports received statewide were substantiated, similar to previous years. The substantiation rate among individual service areas ranged from 86% in Area 8 to 99% in Area 9 (Table 5).

AREA	2018	2019	2020	2021
1	84%	86%	82%	88%
2	92%	94%	97%	92%
3	97%	97%	97%	95%
4	96%	93%	98%	98%
5	93%	99%	97%	93%
6	96%	96%	97%	94%
7	96%	90%	90%	96%
8	92%	91%	91%	86%
9	92%	98%	96%	99%
10	82%	89%	94%	93%
State	92%	94%	94%	93%

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

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 2021, similar to the rates observed in recent years. Whether caseworkers responded to a substantiated GL report by opening a CPS case ranged from 80% in Area 5 to 98% in Areas 3 and 4 (Table 6).

AREA	2018	2019	2020	2021
1	96%	93%	95%	96%
2	96%	99%	95%	95%
3	98%	97%	95%	98%
4	88%	95%	98%	98%
5	96%	93%	92%	80%
6	94%	95%	92%	94%
7	90%	94%	94%	95%
8	97%	97%	94%	97%
9	93%	99%	96%	94%
10	84%	82%	94%	93%
State	94%	95%	94%	94%

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 2021, nearly 15% of substantiated GL reports resulted in removing the newborn from the mother’s custody, similar to the rate observed in previous years. The removal rate varied widely among DCFS service areas. Children in Areas 8 and 10, for instance, were the least likely to be removed from their homes as a result of a substantiated GL report (8%), followed by Area 2 (10%). Meanwhile, newborns in Areas 7 (27%) and 6 (22%) were most likely to be removed in response to a substantiated GL report. Newborns were removed at nearly twice the rate of the previous year in Area 7 (from 14% to 27%) and more than twice the rate in Area 6 (from 9% to 22%; Table 7).

TABLE 7

**CHILD REMOVAL RATE FOR SUBSTANTIATED GL REPORTS BY AREA
SFY 2018–21**

AREA	2018	2019	2020	2021
1	19%	13%	14%	17%
2	16%	15%	11%	10%
3	7%	13%	15%	12%
4	15%	13%	18%	17%
5	15%	14%	11%	15%
6	8%	12%	9%	22%
7	16%	15%	14%	27%
8	13%	16%	9%	8%
9	28%	25%	24%	19%
10	19%	8%	8%	8%
State	15%	14%	13%	15%

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 7, for example, was largely driven by the decisions made in Grant, Lincoln, and Prairie Counties, which collectively removed two thirds of the newborns (10 of 15) involved in substantiated GL reports and—to a lesser extent—decisions made in Jefferson County (six of 29). In comparison, less than 14% (four of 29) were removed in response to substantiated GL reports in the rest of Area 7. Additionally, children were removed at rates noticeably higher than the statewide average in Washington County (25 of 115 removed) in Area 1, Sevier (four of seven) and Little River (four of 11) Counties in Area 4; Faulkner County (seven of 36) in Area 5; and White (10 of 22) and Poinsett (five of 21) Counties in Area 9.

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, 10% or less of victim children from Baxter, Boone, Craighead, Crawford, Crittenden, Mississippi, Phillips, Pope, Sebastian, and St. Francis Counties were removed in response to the true finding.⁴

An analysis of the substantiated GL reports received during SFY 2020 revealed that 29% of the children who were removed from their homes returned home or were discharged to relatives within 12 months,

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.

slightly lower than the rate observed for the previous year (31%).⁵ 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 identical 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 2021 and several preceding years, as appropriate. The highlights of this report are presented below.

- The number of GL reports accepted for investigation has increased, on average, by 10% per year since the law's inception 16 years ago. During SFY 2021, 1,619 GL reports were accepted for investigation, a 20% increase from the previous year.
- Marijuana was the most commonly mentioned illegal substance in GL reports. For SFY 2021, 75% cited marijuana use, either separately or in combination with other drugs, followed by amphetamines/methamphetamines (26%) and then opiates (10%). Benzodiazepines were cited in 5% of the reports, while cocaine was cited in 3%.
- During SFY 2021, 93% 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 2021, similar to the rates observed for the previous three years.
- DCFS removed 15% of newborns from the birthing parent's custody in response to a true GL report during SFY 2021, similar to recent years. Among the 10 DCFS service areas, Areas 8 and 10 demonstrated greater restraint during the year, removing just 8% of children in response to a substantiated GL report. Conversely, Areas 6 and 7 exhibited the highest rate of removals in response to a true GL report; well over 20% of the newborns from those areas were removed.
- Of the children removed in response to a substantiated GL report during SFY 2020, 29% 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.

⁵ The analysis was limited to SFY 2020 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 2021.

APPENDIX: GARRETT'S LAW REPORTS BY COUNTY

TABLE A		
GARRETT'S LAW REPORTS RECEIVED DURING SFY 2021 BY COUNTY AND AREA		
AREA	COUNTY	NUMBER OF REPORTS
1	Benton	82
	Carroll	17
	Madison	14
	Washington	131
Area 1 Total		244
2	Crawford	41
	Franklin	16
	Johnson	8
	Logan	10
	Scott	8
	Sebastian	117
	Yell	5
Area 2 Total		205
3	Clark	15
	Garland	96
	Hot Spring	25
	Howard	7
	Montgomery	7
	Perry	6
	Pike	11
	Polk	10
	Saline	30
Area 3 Total		207

TABLE A

GARRETT'S LAW REPORTS RECEIVED DURING SFY 2021 BY COUNTY AND AREA

AREA	COUNTY	NUMBER OF REPORTS
4	Columbia	5
	Hempstead	10
	Lafayette	3
	Little River	11
	Miller	45
	Nevada	4
	Ouachita	18
	Sevier	7
	Union	22
Area 4 Total		125
5	Baxter	45
	Boone	15
	Conway	9
	Faulkner	37
	Marion	19
	Newton	2
	Pope	21
	Searcy	3
	Van Buren	9
Area 5 Total		160
6	Pulaski	160
Area 6 Total		160
7	Bradley	6
	Calhoun	1
	Cleveland	4
	Dallas	4
	Grant	6
	Jefferson	31
	Lincoln	6
	Lonoke	17
	Prairie	3
Area 7 Total		78

TABLE A

GARRETT'S LAW REPORTS RECEIVED DURING SFY 2021 BY COUNTY AND AREA

AREA	COUNTY	NUMBER OF REPORTS
8	Clay	6
	Craighead	95
	Fulton	3
	Greene	28
	Izard	6
	Lawrence	9
	Mississippi	35
	Randolph	9
Sharp	15	
Area 8 Total		206
9	Cleburne	6
	Crittenden	35
	Cross	7
	Independence	25
	Jackson	6
	Poinsett	21
	Stone	7
	White	22
Woodruff	6	
Area 9 Total		135
10	Arkansas	5
	Ashley	7
	Chicot	5
	Desha	6
	Drew	7
	Lee	8
	Monroe	8
	Phillips	21
St. Francis	32	
Area 10 Total		99
TOTAL		1,619

Figure A
Map of DCFS Service Areas

