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Summary of Garrett's Law Referrals for SFY 2018

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Arkansas Department of Human Services
Division of Children and Family Services

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 causing of a newborn child to be born with:
>
> 1.   an illegal substance present in the newborn's bodily fluids or bodily substances as a result of the pregnant mother knowingly using an illegal substance before the birth of the newborn, or
>
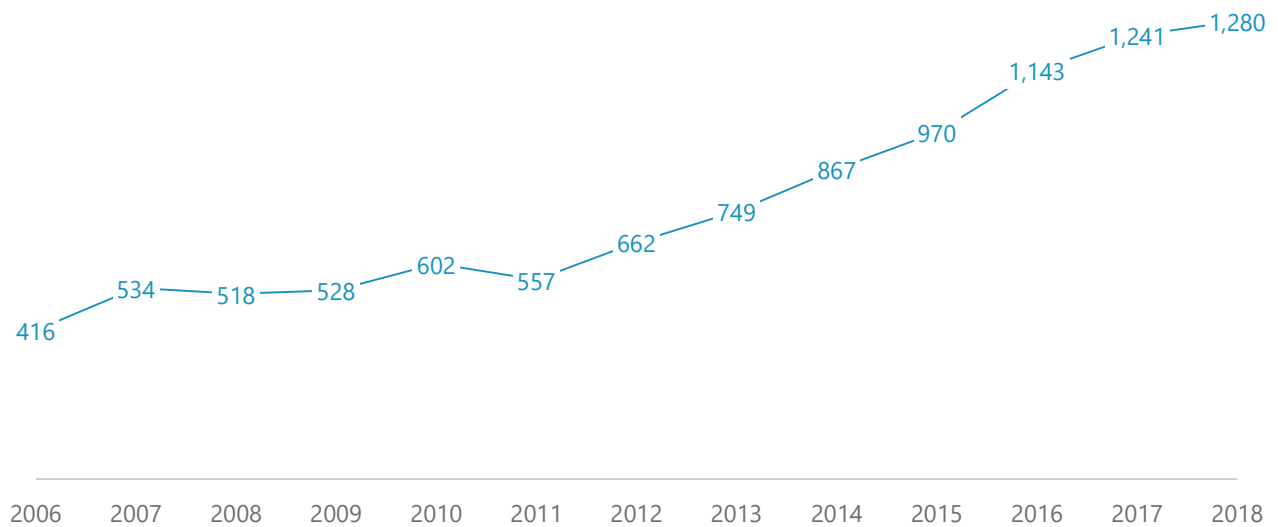> 2.   a health problem as a result of the pregnant mother's use before birth of an illegal substance (p. 3).

Garrett's Law (GL), which was named after a child who was born under such circumstances, was modified by Act 284 of the 2007 Legislative Session. The "health problem" criterion was eliminated but was replaced by the criterion of "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 on July 1, 2007), the presence of an illegal substance, which includes 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 Registry, even if the report was substantiated. This change was made in response to concerns that being listed in the maltreatment registry might have negative consequences on employment prospects of mothers involved in such reports.

Following is information on GL reports received during state fiscal year (SFY) 2018. As in previous years' reports, many of the data for 2018 appear in comparison to data from the preceding three fiscal years.

GARRETT'S LAW REPORTS RECEIVED

The number of GL reports accepted for investigation has consistently increased since the law's inception 13 years ago. During SFY 2018, 1,280 GL reports were received,[1] an increase of 3% 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. From SFY 2012 through SFY 2018; however, the number of GL reports increased at nearly twice that rate (an average of 13% per year; Figure 1).

Figure 1
Garrett's Law Referrals Received
SFY 2006–2018

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[1] Throughout this report, "GL reports" refers only to GL reports accepted for an investigation.

CHARACTERISTICS OF GARRETT'S LAW REPORTS

Act 1176 requires that an annual report be delivered to the Legislature that includes the

following characteristics of GL reports.

- The ages of mothers involved in the reports
- The types of illegal substances to which newborns were allegedly exposed
- The estimated gestational ages of newborns
- Any health problems observed in newborns

Although there are some year-to-year fluctuations in the age distribution of mothers

involved in GL reports, 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 old for SFY 2018 (not shown). The

age distribution of the mothers cited in GL reports was similar to previous years.

Table 1				
Age Distribution of Mothers in GL Reports **SFY 2015–2018**				
Mother's Age	**SFY 2015**	**SFY 2016**	**SFY 2017**	**SFY 2018**
Younger than 20 years	7%	7%	7%	6%
20 to 24 years	36%	32%	32%	32%
25 to 29 years	31%	34%	33%	31%
30 to 34 years	18%	19%	20%	23%
35 to 39 years	6%	6%	7%	7%
40 years or older	1%	1%	1%	1%
Total	**100%**	**100%**	**100%**	**100%**
Number of Reports	**970**	**1,143**	**1,241**	**1,280**

Table 2 shows the types of drugs involved in GL reports. By far, marijuana (including THC and cannabis) was most commonly mentioned and was cited in 65% of the GL reports for SFY 2018. The second most commonly cited drug was amphetamines/methamphetamines (26%). Opiates (e.g., heroin, morphine, codeine, and oxycodone) were the third most commonly cited drug (18%) during the year, followed by benzodiazepines (e.g., prescription drugs such as Xanax and Valium) at 10% and cocaine at 4%. Barbiturates, hallucinogens, and non-categorized prescription drugs (e.g., tricyclics),[2] are seldom identified in GL reports.

Table 2				
Percentage of GL Reports in Which Drug Was Cited SFY 2015–2018				
Type of Drug	SFY 2015	SFY 2016	SFY 2017	SFY 2018
Marijuana	65%	64%	66%	65%
Amphetamines/Methamphetamines	24%	26%	25%	26%
Opiates	19%	18%	18%	18%
Benzodiazepines	12%	10%	10%	10%
Cocaine	6%	6%	5%	4%
Barbiturates	1%	2%	1%	1%
Hallucinogens	1%	1%	1%	1%
Prescriptions	1%	1%	1%	<1%
Number of Drugs Cited*	**1,252**	**1,460**	**1,552**	**1,616**
Number of Reports	**970**	**1,143**	**1,241**	**1,280**

*Multiple drugs can be mentioned in a given report.

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[2] The drug type of "prescriptions" includes those drugs that are not categorized elsewhere.

Table 3 shows the gestational age distribution of newborns in GL reports over the past four years; 22% were born prematurely this past year, similar to previous years.

Table 3				
Gestational Age Distribution of Newborns in GL Reports SFY 2015–2018				
Gestational Age	**SFY 2015**	**SFY 2016**	**SFY 2017**	**SFY 2018**
Full Term*	69%	71%	69%	70%
Premature†	27%	23%	25%	22%
Unknown	4%	7%	6%	8%
Total	**100%**	**100%**	**100%**	**100%**
Number of Reports	**970**	**1,143**	**1,241**	**1,280**

*Defined as a gestational age of 37 weeks or more.
†Defined as a gestational age of less than 37 weeks.

Among newborns reportedly exposed to substances in utero, 70% did not have any reported health problems, identical to the previous year. Approximately 16% required treatment in a neonatal intensive care unit (NICU), 11% suffered from respiratory distress or other respiratory problems, and 6% exhibited drug-related withdrawal symptoms. Less than 1% died (Table 4).

Table 4				
Percentage of GL Reports in Which Health Problem Was Cited SFY 2015–2018				
Health Problem Reported*	**SFY 2015**	**SFY 2016**	**SFY 2017**	**SFY 2018**
No Health Problems	60%	66%	70%	70%
Neonatal Intensive Care Required	21%	17%	14%	16%
Respiratory Distress	13%	10%	13%	11%
Drug-Related Withdrawal Symptoms	8%	6%	5%	6%
Child Died	1%	<1%	<1%	<1%
All Other Problems†	17%	17%	14%	11%
Number of Reports	**970**	**1,143**	**1,241**	**1,280**

*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, low heart rate, heart murmur, congenital heart defect, anemia, physical deformity, feeding problems, hypoglycemia, and syphilis.

Among the mothers cited in GL reports, those who allegedly used benzodiazepines and cocaine were the most likely to give birth to children with a documented health problem (42% each), followed by those who used amphetamines/methamphetamines (40%) and opiates (39%). Mothers who reportedly used marijuana were the least likely (27%) to give birth to children with a health problem. Newborns whose mothers allegedly used cocaine were also far more likely to spend time in the NICU (30%) than those whose mothers used any other drug, followed by those using amphetamines/methamphetamines (21%). Less than 15% of newborns whose mothers allegedly used marijuana spent time in the NICU.

DCFS RESPONSES TO GARRETT'S LAW REPORTS

This section presents information regarding Arkansas Division of Children and Family Services' (DCFS's) 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;[3] and

- The percentage of substantiated reports that result in removing the newborn from the mother's custody.

In SFY 2018, 92% of the GL reports received statewide were substantiated, similar to previous years. The substantiation rate among individual service areas ranged from 82% (Area 10) to 97% (Area 3; Table 5).

Table 5				
Substantiation Rate of GL Reports by Area **SFY 2015–2018**				
Area	**SFY 2015**	**SFY 2016**	**SFY 2017**	**SFY 2018**
1	89%	83%	88%	84%
2	93%	91%	95%	92%
3	96%	96%	95%	97%
4	95%	93%	92%	96%
5	95%	94%	92%	93%
6	96%	97%	96%	96%
7	95%	85%	83%	96%
8	86%	92%	92%	92%
9	96%	98%	91%	92%
10	94%	83%	96%	82%
State	**93%**	**92%**	**93%**	**92%**

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[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 2018, similar to the case opening rates observed in recent years. Whether caseworkers responded to a substantiated GL report by opening a CPS case varied somewhat among most DCFS service areas, with a low of 84% in Area 10 to a high of 98% in Area 3 (Table 6).

Table 6				
Case Opening Rate for Substantiated GL Reports by Area **SFY 2015–2018**				
Area	**SFY 2015**	**SFY 2016**	**SFY 2017**	**SFY 2018**
1	97%	93%	95%	96%
2	95%	95%	94%	96%
3	100%	99%	97%	98%
4	96%	88%	91%	88%
5	98%	98%	96%	96%
6	99%	98%	93%	94%
7	98%	88%	95%	90%
8	96%	93%	98%	97%
9	98%	100%	96%	93%
10	96%	95%	95%	84%
State	**97%**	**96%**	**95%**	**94%**

Note: In addition to CPS cases that opened due to the GL referral, percentages include cases that opened prior to the referral *and* were 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.

Table 7 shows the percentage of substantiated GL reports that resulted in removing the newborn from the mother's custody. Just under 15% of the newborns, statewide, were removed during SFY 2018, lower than the removal rate observed in previous years. The removal rate varied considerably among the DCFS service areas. For the third consecutive year, Area 3 was the least likely to remove children from their homes as a result of a substantiated GL report (7%).

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Meanwhile, Area 9 was most likely to remove children in response to a substantiated GL report (28%), a pattern that has been observed over the past four years.

Table 7				
Child Removal Rate for Substantiated GL Reports by Area SFY 2015–2018				
Area	SFY 2015	SFY 2016	SFY 2017	SFY 2018
1	23%	25%	14%	19%
2	14%	23%	20%	16%
3	11%	11%	9%	7%
4	21%	24%	19%	15%
5	14%	26%	26%	15%
6	16%	21%	18%	8%
7	32%	16%	21%	16%
8	23%	21%	22%	13%
9	38%	30%	29%	28%
10	10%	21%	13%	19%
State	**20%**	**21%**	**18%**	**15%**

The rate at which children were removed in response to a substantiated GL report also fluctuated at the county level. The relatively high removal rate observed in Area 9 can be largely attributed to the decisions made in Cross, Jackson, and White counties, which collectively removed nearly half (47%) the children involved in substantiated GL reports. In comparison, 18% were removed in response to substantiated GL reports in the rest of Area 9. Meanwhile, most counties in Area 3 exhibited great restraint with respect to removing children. Garland County (which received the second-highest number of substantiated GL reports in the state)[4] warrants particular mention, as less than 4% of the GL-involved children there were removed.

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[4] Only Pulaski County (Area 6) had more substantiated GL reports.

An analysis of the substantiated GL reports received during SFY 2017 revealed that 37% of the children who had been removed from their home returned home or were discharged to relatives within 12 months, identical to the rate observed during the previous year.[5] Among children involved in substantiated GL reports who were not removed from the home immediately, 7% were removed within 12 months and nearly 4% were cited in a subsequent substantiated maltreatment report over the same period. These figures were slightly higher than those reported for the previous year (6% and 2%, respectively).

SUMMARY

This report reviewed select characteristics of GL reports and the DCFS response to those reports for SFY 2018 and several preceding years, as appropriate. The highlights of this review are presented below.

- The number of GL reports accepted for investigation has steadily increased since the law's inception 13 years ago. During SFY 2018, 1,280 GL reports were accepted for investigation, a 3% increase from the previous year and three times the number of reports received for SFY 2006.

- Across the last four fiscal years, marijuana was the most commonly mentioned illegal substance in the GL reports. For SFY 2018, 65% cited marijuana usage, either separately or in combination with other drugs, followed by amphetamines/methamphetamines (26%) and then opiates (18%). Benzodiazepines were cited in 10% of the reports, while cocaine was cited in 4%.

- During SFY 2018, 92% of the GL reports statewide were substantiated, similar to the substantiation rate observed in recent years.

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[5] The analysis was limited to SFY 2017 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 2018.

- The rate at which DCFS caseworkers opened a CPS case in response to a substantiated GL report was 94% for SFY 2018, similar to the rates observed for the previous three years.

- Less than 15% of SFY 2018's substantiated GL reports led to removing the newborn from the mother's custody. Among DCFS's 10 service areas, Area 3 exhibited the lowest rate of removing children in response to a substantiated GL report, driven in large part by the restraint in removals observed in Garland County. 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 2017, 37% either returned home or were discharged to relatives within 12 months. Among those not removed initially, 7% were removed within 12 months and 4% were cited in a subsequent substantiated maltreatment report over the same period.