

# Summary of Garrett's Law Referrals for SFY 2019

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Arkansas Department of Human Services  
Division of Children and Family Services

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## 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:

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” criteria was eliminated but was replaced by the criteria 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 a listing in the maltreatment registry might have negative consequences on employment prospects of mothers involved in such reports.

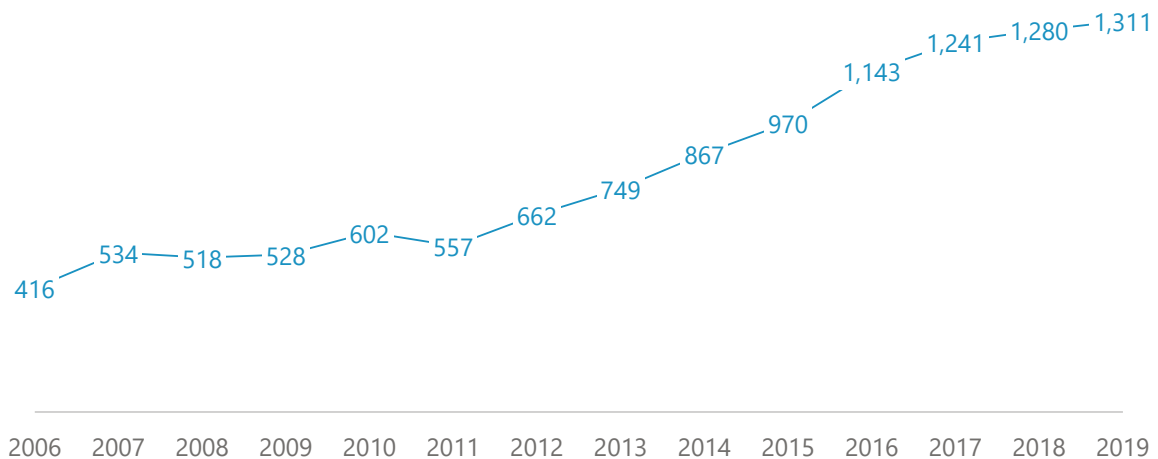
Following is information on GL reports received during state fiscal year (SFY) 2019. As in previous years’ reports, much of the data for 2019 appear in comparison to data from the preceding three fiscal years.

## GARRETT'S LAW REPORTS RECEIVED

The number of GL reports accepted for investigation has consistently increased since the law's inception 14 years ago. During SFY 2019, 1,311 GL reports were received,<sup>1</sup> an increase of 2% 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 16% per year) from SFY 2012 through SFY 2016 before increasing at a lesser rate from SFY 2017 onward (an average of 5% per year; Figure 1).

Figure 1

### Garrett's Law Referrals Received SFY 2006–2019



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

See Appendix Table A for the number of GL reports received by county and service area.

Appendix Figure A offers a map outlining the counties that make up each service area.

## 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.

- 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 some from 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 2019 (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 2016–2019</b>				
<b>Mother's Age</b>	<b>SFY 2016</b>	<b>SFY 2017</b>	<b>SFY 2018</b>	<b>SFY 2019</b>
Younger than 20 years	7%	7%	6%	6%
20 to 24 years	32%	32%	32%	32%
25 to 29 years	34%	33%	31%	30%
30 to 34 years	19%	20%	23%	21%
35 to 39 years	6%	7%	7%	10%
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>1,143</b>	<b>1,241</b>	<b>1,280</b>	<b>1,311</b>

Of the 1,311 mothers cited in GL reports for SFY 2019, 286 (22%) were prior offenders of child maltreatment; of the same 1,311 mothers, 162 (12%) were prior offenders of Garrett’s Law.

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 70% of the GL reports for SFY 2019. 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%) during the year, followed by benzodiazepines (e.g., prescription drugs such as Xanax and Valium) at 8% and cocaine at 4%. Barbiturates, hallucinogens, and non-categorized prescription drugs (e.g., tricyclics),<sup>2</sup> are seldom identified in GL reports.

Table 2				
Percentage of GL Reports in Which Drug Was Cited				
SFY 2016–2019				
Type of Drug	SFY 2016	SFY 2017	SFY 2018	SFY 2019
Marijuana	64%	66%	65%	70%
Amphetamines/methamphetamines	26%	25%	26%	27%
Opiates	18%	18%	18%	11%
Benzodiazepines	10%	10%	10%	8%
Cocaine	6%	5%	4%	4%
Barbiturates	2%	1%	1%	1%
Hallucinogens	1%	1%	1%	1%
Prescriptions	1%	1%	<1%	<1%
<b>Number of Drugs Cited*</b>	<b>1,460</b>	<b>1,552</b>	<b>1,616</b>	<b>1,602</b>
<b>Number of Reports</b>	<b>1,143</b>	<b>1,241</b>	<b>1,280</b>	<b>1,311</b>

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

Table 3 shows the gestational age distribution of newborns in GL reports over the past four years.<sup>3</sup> Nearly 23 percent were born prematurely during SFY 2019, similar to previous years.

<sup>2</sup> "Prescriptions" includes drugs not categorized elsewhere.

<sup>3</sup> Reports in which the newborn’s gestational age was unknown are excluded from this breakdown.

Table 3				
Gestational Age Distribution of Newborns in GL Reports SFY 2016–2019				
Gestational Age	SFY 2016	SFY 2017	SFY 2018	SFY 2019
Full term*	76%	73%	76%	77%
Premature†	24%	27%	24%	23%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
<b>Number of Reports</b>	<b>1,143</b>	<b>1,241</b>	<b>1,280</b>	<b>1,311</b>

\*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, 76% did not have any reported health problems, higher than the previous year. Approximately 13% 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 (Table 4).

Table 4				
Percentage of GL Reports in Which Health Problem Was Cited SFY 2016–2019				
Health Problem Reported*	SFY 2016	SFY 2017	SFY 2018	SFY 2018
No health problems	66%	70%	70%	76%
Neonatal intensive care required	17%	14%	16%	13%
Respiratory distress	10%	13%	11%	11%
Drug-related withdrawal symptoms	6%	5%	6%	6%
Child died	<1%	<1%	<1%	<1%
All other problems†	17%	14%	11%	10%
<b>Number of Reports</b>	<b>1,143</b>	<b>1,241</b>	<b>1,280</b>	<b>1,311</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, 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 cocaine were the most likely to give birth to children with a documented health problem (46% each), followed closely by those who used opiates (45%). Health problems were also found to varying extent among newborns whose mothers reportedly used amphetamines/methamphetamines (35%) and benzodiazepines (33%). Mothers who allegedly used marijuana were the least likely (20%) 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 (25%) than those whose mothers used any other drug, followed by those using opiates (22%). Less than 11% 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) 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>4</sup> and
- The percentage of substantiated reports that result in removing the newborn from the mother's custody.

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<sup>4</sup> CPS cases include cases in which children remain in the home and cases in which children are placed in foster care.



In SFY 2019, 94% of the GL reports received statewide were substantiated, similar to previous years. The substantiation rate among individual service areas ranged from 86% (Area 1) to 99% (Area 5; Table 5).

<b>Table 5</b>				
<b>Substantiation Rate of GL Reports by Area</b>				
<b>SFY 2016–2019</b>				
<b>Area</b>	<b>SFY 2016</b>	<b>SFY 2017</b>	<b>SFY 2018</b>	<b>SFY 2019</b>
1	83%	88%	84%	86%
2	91%	95%	92%	94%
3	96%	95%	97%	97%
4	93%	92%	96%	93%
5	94%	92%	93%	99%
6	97%	96%	96%	96%
7	85%	83%	96%	90%
8	92%	92%	92%	91%
9	98%	91%	92%	98%
10	83%	96%	82%	89%
<b>State</b>	<b>92%</b>	<b>93%</b>	<b>92%</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 95% for SFY 2019, 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 82% in Area 10 to a high of 99% in Areas 2 and 9 (Table 6).

Table 6				
Case Opening Rates for Substantiated GL Reports by Area SFY 2016–2019				
Area	SFY 2016	SFY 2017	SFY 2018	SFY 2019
1	93%	95%	96%	93%
2	95%	94%	96%	99%
3	99%	97%	98%	97%
4	88%	91%	88%	95%
5	98%	96%	96%	93%
6	98%	93%	94%	95%
7	88%	95%	90%	94%
8	93%	98%	97%	97%
9	100%	96%	93%	99%
10	95%	95%	84%	82%
<b>State</b>	<b>96%</b>	<b>95%</b>	<b>94%</b>	<b>95%</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.

Table 7 shows the percentage of substantiated GL reports that resulted in removing the newborn from the mother’s custody. Just over 14% of the newborns, statewide, were removed during SFY 2019, lower than the removal rate observed in previous years. The removal rate varied considerably among DCFS service areas. Area 10 was the least likely to remove children from their homes as a result of a substantiated GL report (8%), followed by Area 6 (12%). Meanwhile, for the fourth consecutive year Area 9 was, by far, most likely to remove children in response to a substantiated GL report (25%); the next closest was Area 8 (16%).

Table 7				
Child Removal Rate for Substantiated GL Reports by Area SFY 2016–2019				
Area	SFY 2016	SFY 2017	SFY 2018	SFY 2019
1	25%	14%	19%	13%
2	23%	20%	16%	15%
3	11%	9%	7%	13%
4	24%	19%	15%	13%
5	26%	26%	15%	14%
6	21%	18%	8%	12%
7	16%	21%	16%	15%
8	21%	22%	13%	16%
9	30%	29%	28%	25%
10	21%	13%	19%	8%
<b>State</b>	<b>21%</b>	<b>18%</b>	<b>15%</b>	<b>14%</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 be largely attributed to the decisions made in Cross and White counties, which collectively removed nearly half (16 of 34) the children involved in substantiated GL reports. In comparison, less than 15% (10 of 68) were removed in response to substantiated GL reports in the rest of Area 9. Additionally, children from Saline County in Area 3 (seven of 26 removed), Ouachita County in Area 4 (five of 11), and Faulkner County in Area 5 (12 of 45) were removed at rates noticeably higher than the statewide average.

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

reports during the year—were removed at a rate either less than or slightly above the statewide average.<sup>5</sup>

An analysis of the substantiated GL reports received during SFY 2018 revealed that 33% 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 (37%).<sup>6</sup> Among children involved in substantiated GL reports who were not removed from the home immediately, 5% were removed within 12 months and nearly 3% were cited in a subsequent substantiated maltreatment report over the same period. These figures were slightly lower than those reported for the previous year (7% and 4%, respectively).

## **SUMMARY**

This report reviewed select characteristics of GL reports and the DCFS response to those reports for SFY 2019 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 14 years ago. During SFY 2019, 1,311 GL reports were accepted for investigation, a 2% increase from the previous year.
- Marijuana was the most commonly mentioned illegal substance in GL reports. For SFY 2019, 70% cited marijuana usage, either separately or in combination with other drugs, followed by amphetamines/methamphetamines (27%) and then opiates (11%). Benzodiazepines were cited in 8% of the reports, while cocaine was cited in 4%.

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<sup>5</sup> Specifically, the percentage of newborns removed in response to a true report was 12% for Pulaski, 11% for Garland, 15% for Sebastian, 14% for Washington, 8% for Benton, and 6% for Craighead.

<sup>6</sup> The analysis was limited to SFY 2018 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 2019.

- During SFY 2019, 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 95% for SFY 2019, similar to the rates observed for the previous three years.
- Compared to recent years, DCFS demonstrated greater restraint during SFY 2019 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 Area 6. Conversely, Area 9 exhibited the highest rate of removals in response to a GL report, driven by Cross and White counties.
- Of the children removed in response to a substantiated GL report during SFY 2018, 33% either returned home or were discharged to relatives within 12 months. Among those not removed initially, 5% were removed within 12 months and 3% were cited in a subsequent substantiated maltreatment report over the same period.

## **Appendix**

Table A		
Garrett's Law Reports Received During SFY 2019 by County and Area		
Area	County	Number of Reports
1	Benton	78
	Carroll	12
	Madison	7
	Washington	86
<b>Area 1 Total</b>		<b>183</b>
2	Crawford	29
	Franklin	7
	Johnson	6
	Logan	4
	Scott	3
	Sebastian	90
	Yell	7
<b>Area 2 Total</b>		<b>146</b>
3	Clark	16
	Garland	118
	Hot Spring	24
	Howard	3
	Montgomery	4
	Perry	8
	Pike	7
	Polk	4
	Saline	26
<b>Area 3 Total</b>		<b>210</b>
4	Columbia	4
	Hempstead	10
	Lafayette	3
	Little River	3
	Miller	24
	Nevada	6
	Ouachita	13
	Sevier	6
	Union	13
<b>Area 4 Total</b>		<b>82</b>

Table A		
Garrett's Law Reports Received During SFY 2019 by County and Area		
Area	County	Number of Reports
5	Baxter	18
	Boone	10
	Conway	11
	Faulkner	45
	Marion	8
	Newton	0
	Pope	22
	Searcy	3
	Van Buren	4
<b>Area 5 Total</b>		<b>121</b>
6	Pulaski	169
<b>Area 6 Total</b>		<b>169</b>
7	Bradley	1
	Calhoun	2
	Cleveland	3
	Dallas	1
	Grant	2
	Jefferson	40
	Lincoln	2
	Lonoke	18
	Prairie	4
<b>Area 7 Total</b>		<b>73</b>
8	Clay	8
	Craighead	50
	Fulton	3
	Greene	26
	Izard	6
	Lawrence	7
	Mississippi	25
	Randolph	7
	Sharp	8
<b>Area 8 Total</b>		<b>140</b>



Table A		
Garrett's Law Reports Received During SFY 2019 by County and Area		
Area	County	Number of Reports
<b>9</b>	Cleburne	4
	Crittenden	31
	Cross	14
	Independence	10
	Jackson	4
	Poinsett	13
	Stone	4
	White	20
	Woodruff	4
<b>Area 9 Total</b>		<b>104</b>
<b>10</b>	Arkansas	8
	Ashley	9
	Chicot	7
	Desha	6
	Drew	6
	Lee	4
	Monroe	11
	Phillips	11
	St. Francis	21
<b>Area 10 Total</b>		<b>83</b>
<b>TOTAL</b>		<b>1,311</b>

Figure A

Map of DCFS Service Areas

