

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 1079

4  
5 By: Representative T. Hutchinson  
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## For An Act To Be Entitled

8  
9 AN ACT TO CREATE THE OFFENSE OF CHILD ABUSE BY  
10 PRENATAL EXPOSURE TO A CONTROLLED SUBSTANCE; AND  
11 FOR OTHER PURPOSES.  
12

## Subtitle

13  
14 AN ACT TO CREATE THE OFFENSE OF CHILD  
15 ABUSE BY PRENATAL EXPOSURE TO A  
16 CONTROLLED SUBSTANCE.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code Title 5, Chapter 27, Subchapter 2 is amended  
22 to add an additional section to read as follows:

23 5-27-231. Child abuse by prenatal exposure to a controlled substance.

24 (a) For purposes of this section:

25 (1) "Child" includes a living fetus in utero of twelve (12)  
26 weeks or greater gestation; and

27 (2) "Controlled substance" means a substance listed in Schedules  
28 I, II, III, or IV of the List of Controlled Substances for the State of  
29 Arkansas promulgated by the Director of the Department of Health.

30 (b)(1) A person commits the offense of child abuse by prenatal  
31 exposure to a controlled substance if the person knowingly subjects a child  
32 to prenatal exposure to abusive use of a controlled substance.

33 (2) A rebuttable presumption of prenatal exposure to abusive use  
34 of a controlled substance is established if:

35 (A) A child is born addicted or dependent on a controlled  
36 substance; or



1                   (B) A child has a significant presence of a controlled  
2 substance in his or her system at birth.

3                   (3) The presumption in subdivision (b)(2) of this section may be  
4 overcome by submission of evidence to create a reasonable doubt that the  
5 person charged knowingly subjected a child to prenatal exposure to abusive  
6 use of a controlled substance.

7                   (c)(1) Any person who violates subdivision (b)(1) of this section is  
8 guilty of a Class D felony.

9                   (2) Any person who violates subdivision (b)(1) of this section  
10 is guilty of a Class C felony if a child suffers serious physical injury  
11 because of the violation.

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