

Arkansas
Department
of Human
Services



*Division of
Children and
Family
Services*

Summary of Garrett's Law Referrals for SFY 2017

Produced for:
*Arkansas Department of Human Services
Division of Children and Family Services*

Produced by:
Hornby Zeller Associates, Inc.

September 2017

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.”

Garrett’s Law, which was named after a newborn 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 now sufficient cause to substantiate an allegation of neglect under Garrett’s Law. Act 284 also stipulated that mothers cited in Garrett’s Law 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.

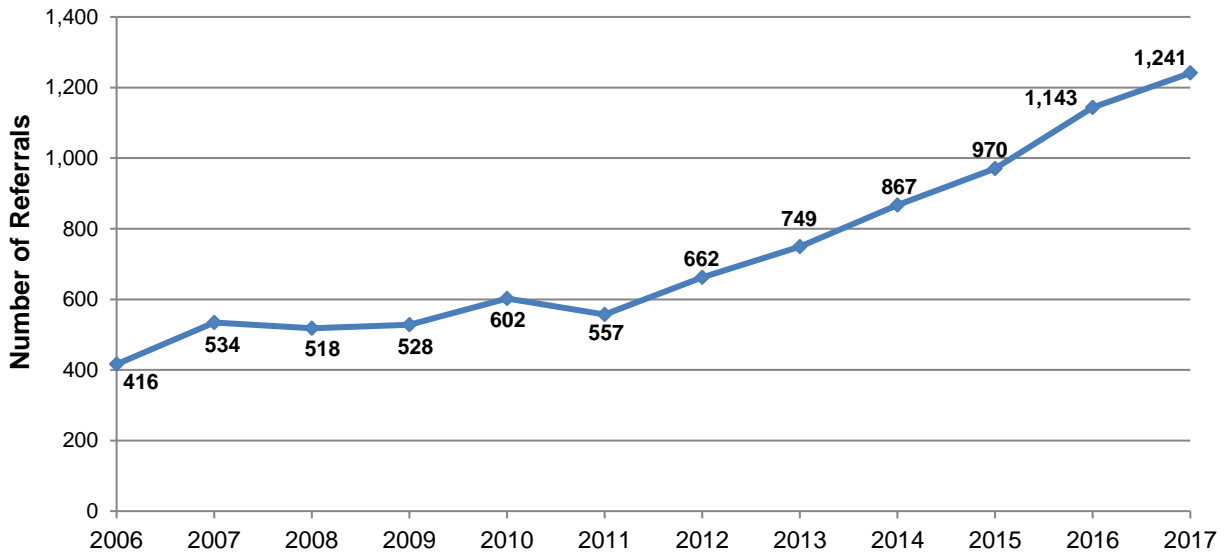
This report presents information on Garrett’s Law reports received during State Fiscal Year (SFY) 2017. As in previous years’ reports, many of the data for 2017 are shown in comparison to data from the preceding three fiscal years.

GARRETT'S LAW REPORTS RECEIVED

The number of Garrett's Law (GL) reports accepted for investigation has consistently increased since the law's inception 12 years ago. During SFY 2017, 1,241 GL reports were received,¹ an increase of nine percent from the previous year and nearly three times the number received in SFY 2006 (416).

As displayed in Figure 1, GL reports increased, on average, by seven percent per year from SFY 2006 through SFY 2011. From SFY 2012 through SFY 2017, however, the number of GL reports increased at double that rate (an average of 14 percent per year).

**Figure 1:
Garrett's Law Referrals Received,
State Fiscal Years 2006 - 2017**



¹ Throughout this report, "GL reports" refers to only 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:

- 1) the ages of mothers involved in the reports,
- 2) the types of illegal substances to which the newborns were exposed,
- 3) the estimated gestational ages of the newborns, and
- 4) any health problems observed in the 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 (see Table 1). The median age of all GL mothers was 26 years old for SFY 2017. The age distribution of the mothers cited in GL reports was similar to previous years.

**Table 1:
Age Distribution (%) of Mothers in Garrett’s Law Reports,
State Fiscal Years 2014-2017**

Mother’s Age	SFY 2014	SFY 2015	SFY 2016	SFY 2017
Younger than 20 years	6.5	7.1	7.2	7.0
20 to 24 years	36.9	35.6	32.0	32.2
25 to 29 years	30.9	31.3	33.7	32.8
30 to 34 years	19.4	18.5	19.2	19.9
35 to 39 years	5.2	6.2	6.5	7.1
40 years or older	1.0	1.3	1.5	1.0
Unknown	0.1	0.0	0.0	0.0
Total	100.0	100.0	100.0	100.0
Number of Reports	867	970	1,143	1,241

Table 2 shows the types of drugs involved in GL reports. By far, marijuana (including THC and cannabis) represents the most commonly mentioned drug for each of the past four fiscal years. Marijuana was cited in nearly two-thirds (66 percent) of the GL reports for SFY 2017. The second most commonly cited drug was amphetamines/ methamphetamines (25 percent).

**Table 2:
Percentage (%) of Garrett's Law Reports in which Drug was Cited,
State Fiscal Years 2014-2017**

Type of Drug	SFY 2014	SFY 2015	SFY 2016	SFY 2017
Marijuana	66.2	65.1	64.5	65.5
Amphetamines	22.7	24.1	25.8	24.9
Opiates	20.8	19.5	17.8	17.9
Benzodiazepines	8.4	11.5	9.8	9.9
Cocaine	5.5	6.2	6.0	4.7
Barbiturates	1.7	0.9	1.7	0.7
Hallucinogens	0.3	0.7	1.1	0.7
Prescriptions	2.0	1.0	0.9	0.6
Number of Drugs Cited²				
	1,107	1,252	1,460	1,552
Number of Reports				
	867	970	1,143	1,241

Opiates (e.g., heroin, morphine, codeine, and oxycodone) were the third most commonly cited drug (18 percent) during the year, followed by benzodiazepines (e.g., prescription drugs such as Xanax and Valium) at ten percent and cocaine at five percent. Barbiturates, hallucinogens, and non-categorized prescription drugs (e.g., tricyclics),³ are rarely reported in GL reports (less than one percent each).

Table 3 shows the gestational age distribution of newborns in GL reports over the past four years. One quarter (25 percent) of the newborns were born prematurely this past year, similar to the percentages reported in previous years.

**Table 3:
Gestational Age Distribution (%) of Newborns in Garrett's Law Reports,
State Fiscal Years 2014-2017**

Gestational Age	SFY 2014	SFY 2015	SFY 2016	SFY 2017
Full-Term⁴	69.4	68.6	70.5	69.2
Premature⁵	23.6	27.3	22.6	25.3
Unknown	7.0	4.1	6.9	5.5
Total				
	100.0	100.0	100.0	100.0
Number of Reports				
	867	970	1,143	1,241

² Multiple drugs can be mentioned in a given report.

³ The drug type of "prescriptions" includes those drugs that are not categorized elsewhere.

⁴ Defined as a gestational age of 37 weeks or more.

⁵ Defined as a gestational age of less than 37 weeks.

The health problems reported for newborns in GL reports for SFY 2017 are shown in Table 4.⁶

**Table 4:
Percentage (%) of Garrett’s Law Reports in which Health Problem was Cited,
State Fiscal Years 2015-2017**

Health Problem Reported ⁷	SFY 2015	SFY 2016	SFY 2017
No Health Problems	60.3	65.5	69.9
Neonatal Intensive Care Required	20.5	16.6	13.7
Respiratory Distress	13.2	10.0	12.7
Drug-Related Withdrawal Symptoms	8.5	6.1	4.9
Child Died	1.0	0.3	0.3
All Other Problems ⁸	16.8	17.3	14.2
Number of Reports	970	1,143	1,241

Seventy percent of the newborns did not have any reported health problems; this result is higher than the percentage reported in previous years. Approximately 14 percent of the newborns required treatment in a neonatal intensive care unit (NICU), nearly 13 percent suffered from respiratory distress or other respiratory problems, and five percent exhibited drug-related withdrawal symptoms. Less than one percent passed away.

Among the mothers cited in GL reports, those who allegedly abused cocaine were the most likely to give birth to children with a documented health problem (47 percent), followed by those who abused benzodiazepines (41 percent), opiates (38 percent) and amphetamines/methamphetamines (37 percent). Mothers who allegedly used marijuana were the least likely (27 percent) 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 (31 percent) than those whose mothers abused any other drug, followed by children born with amphetamines/methamphetamines in their system (15 percent).

⁶ For SFYs 2015 through 2017, DCFS improved the process by which it documents the health problems of newborn children involved in GL reports. As a result, the percentages for these years cannot be compared to the health problems reported for SFY 2014 or earlier.

⁷ Multiple health problems can be reported for a given report.

⁸ “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.

DCFS RESPONSES TO GARRETT'S LAW REPORTS

This section presents information regarding DCFS' response to GL reports, including:

- 1) the percentage of reports that are substantiated after an investigation,
- 2) the percentage of true reports that result in opening a child protective services case,⁹ and
- 3) the percentage of true reports that result in removing the newborn from the mother's custody.

Table 5 presents the substantiation rate of GL reports for the past four fiscal years by Area.

**Table 5:
Substantiation Rate (%) of Garrett's Law Reports by Area,
State Fiscal Years 2014-2017**

Area	SFY 2014	SFY 2015	SFY 2016	SFY 2017
1	90.1	88.6	82.9	87.8
2	93.2	92.9	91.3	94.7
3	95.4	96.4	95.9	94.5
4	91.3	95.0	92.7	91.8
5	91.5	94.5	93.7	91.8
6	97.0	95.8	96.6	95.8
7	92.7	95.3	85.0	82.6
8	87.4	85.8	91.7	91.5
9	94.9	96.4	97.8	91.3
10	94.3	94.3	82.9	96.3
State	93.1	92.9	91.9	92.6

As displayed above, nearly 93 percent of the GL reports received statewide were substantiated during SFY 2017, similar to previous years. The substantiation rate among the individual Service Areas ranged from 83 percent (Area 7) to 96 percent (Areas 6 and 10).

⁹ Child protective services cases include both in-home cases in which children remain in the home and out-of-home cases in which children are placed in foster care.

Table 6 shows the percentage of substantiated GL reports that resulted in opening a child protective services case¹⁰ by SFY and Area.

**Table 6:
Case Opening Rate (%) for True Garrett’s Law Reports by Area,
State Fiscal Years 2014-2017**

Area	SFY 2014	SFY 2015	SFY 2016	SFY 2017
1	90.2	96.8	93.1	94.9
2	95.8	94.9	94.9	93.7
3	96.4	100.0	98.6	97.4
4	97.6	96.5	88.2	91.0
5	96.0	97.7	97.8	96.4
6	98.7	99.4	98.5	92.9
7	92.1	97.6	88.2	94.7
8	90.4	96.1	92.7	98.3
9	91.9	97.5	100.0	96.4
10	98.0	96.0	95.2	94.8
State	95.0	97.3	95.8	95.2

Statewide, the rate at which DCFS caseworkers opened a child protective services case in response to a true finding of a GL report stood at 95 percent for SFY 2017, similar to the rates observed in recent years.

Whether or not caseworkers responded to a substantiated GL report by opening a child protective services case was largely consistent among most DCFS Service Areas during SFY 2017, ranging from 91 percent in Area 4 to 98 percent in Area 8.

¹⁰ In addition to child protective services cases that opened as a result of the GL referral, the percentages include cases that opened prior to the referral *and* were still open at the time of the referral. Considered together, these provide a more complete representation of the percentage of substantiated GL referrals that were handled within the context of an active child protective services case.

Table 7 shows the percentage of substantiated GL reports that resulted in removing the newborn from the mother’s custody.

**Table 7:
Child Removal Rate (%) for True Garrett’s Law Reports by Area,
State Fiscal Years 2014-2017**

Area	SFY 2014	SFY 2015	SFY 2016	SFY 2017
1	22.0	22.6	25.5	13.9
2	17.7	13.6	22.8	20.4
3	10.8	11.1	11.4	8.9
4	28.6	21.1	23.5	19.4
5	24.0	14.0	25.8	25.9
6	14.5	16.5	21.3	18.0
7	39.5	31.7	15.7	21.1
8	21.7	22.8	20.9	21.8
9	36.5	38.3	30.3	28.6
10	18.0	10.0	20.6	13.0
State				
	21.2	19.5	21.5	18.1

Eighteen percent of the newborns, statewide, were removed from their mothers during SFY 2017, although the rate varied considerably among the DCFS Service Areas. Area 3 was the least likely to remove children from their homes as a result of a true GL report during SFY 2017 (nine percent). Meanwhile, Area 9 was most likely to remove children in response to a true GL report (29 percent), a trend that has been observed over the past four fiscal years.

The rate at which children were removed in response to a true GL report also fluctuated at the county level. The relatively high removal rate observed in Area 9 can be localized to Jackson and Poinsett counties, which collectively removed 40 percent of the children in response to true GL reports. Meanwhile, Garland County, which received the second-highest number of true GL reports within the state,¹¹ drove the low removal rate in Area 3; less than six percent of those children were removed.

An analysis of the true GL reports received during SFY 2016¹² revealed that 37 percent of the victim children who had been removed from their home returned home within 12 months, a rate which is lower than the previous year (47 percent). Among the victim children involved in true GL reports who were not removed from the home immediately,

¹¹ Only Pulaski County (Area 6) had more true reports.

¹² The analysis was limited to SFY 2016 to allow sufficient time, i.e., 12 months, to pass to track forward all the victim children cited in GL reports. Sufficient time has not passed for the affected newborns for whom a report was received during SFY 2017.

six percent were removed within 12 months and two percent were cited as victim children in a subsequent true maltreatment report over the same period. These figures were slightly lower than those reported for the previous year (seven and four percent, respectively).

SUMMARY

This report reviewed select characteristics of Garrett's Law reports and DCFS' response to those reports for SFY 2017 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 12 years ago. During SFY 2017, 1,241 GL reports were accepted for investigation, a nine percent increase from the previous year and nearly three times the number of reports received for SFY 2006.
- Across the last four SFYs, marijuana was the most commonly mentioned illegal substance in the GL reports. For SFY 2017, 66 percent cited marijuana usage, either separately or in combination with other drugs, followed by amphetamines/methamphetamines (25 percent) and then opiates (18 percent). Benzodiazepines were cited in ten percent of the reports, while cocaine was cited in five percent.
- During SFY 2017, nearly 93 percent of the GL reports statewide were found true, similar to the substantiation rate observed in recent years.
- The rate at which DCFS caseworkers opened a child protective services case in response to a substantiated GL report stood at 95 percent for SFY 2017, similar to the rates observed for the previous three years.
- Eighteen percent of SFY 2017's substantiated GL reports led to removing the newborn from the mother's custody. Among DCFS' ten Service Areas, Area 3 exhibited the lowest rate of removing children in response to a true GL report, which was driven 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 mainly by Jackson and Poinsett counties.
- Of the children removed in response to a true GL report during SFY 2016, 37 percent returned home within 12 months, a rate which is lower than the previous year. Among those not removed initially, six percent were removed within 12 months and two percent were cited as victim children in a subsequent true maltreatment report over the same period.