

Perinatal Substance Use and Substance Exposed Newborns: Understanding the Intersection Between Statute, Child Welfare and Health Care Providers

Shannon Bryan, DCW SUD/SEN Specialist



COLORADO
Department of Human Services

What We'll Cover

1. Brief introduction and background
2. Best Practices for Healthcare Based Providers
3. Child Welfare Response & Involvement
4. Q&A



Plans of Safe Care Legislation



COLORADO
Department of Human Services

What is a PoSC??

The Plan of Safe Care addresses the treatment needs of infants born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or an FASD, and the health and substance use disorder (SUD) treatment their affected family or caregivers.



CAPTA

- Initially authorized in 1974
- Provides Federal funding and guidance to States in support of prevention, assessment, investigation, prosecution, and treatment activities
- Sets forth a Federal definition of child abuse and neglect.

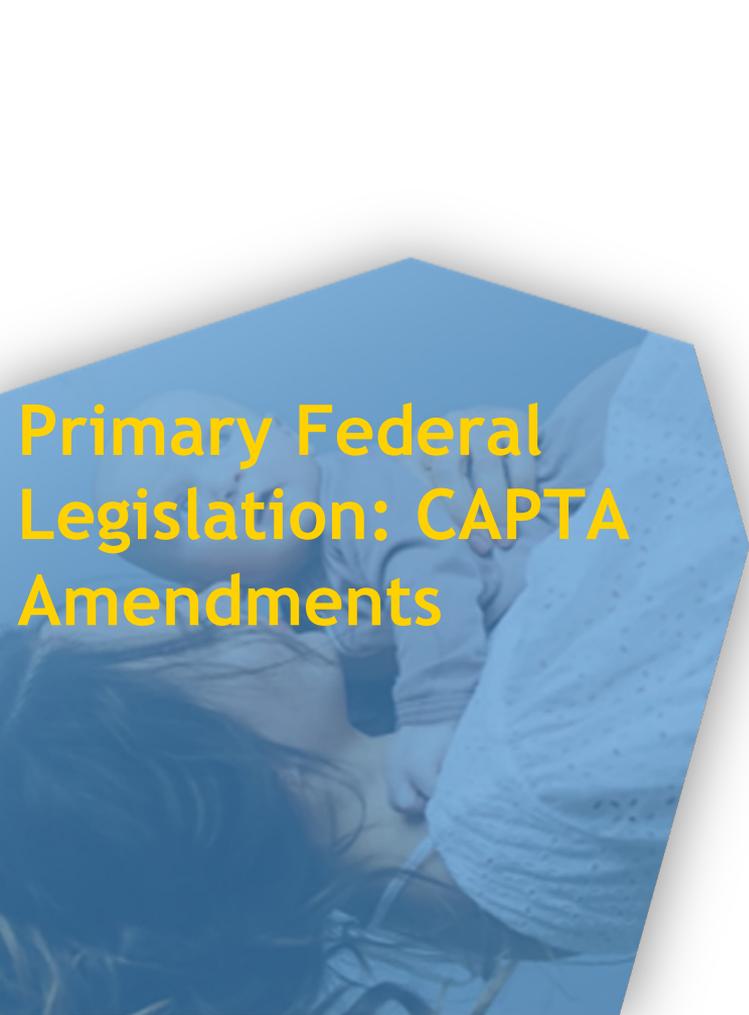


Primary Federal Legislation: Child Abuse Prevention And Treatment Act



COLORADO

Department of Human Services



Primary Federal Legislation: CAPTA Amendments

- 2003: Keeping Children and Families Safe Act
 - Introduces Plans of Safe Care as a requirement for States receiving CAPTA funds,
 - “the development of a Plan of Safe Care (POSC) for the infant born and identified as being affected by *illegal* substance abuse or withdrawal symptoms”
- 2010: Child Abuse Prevention and Treatment Act (CAPTA) Reauthorization
 - Addition of FASD diagnosis for POSC development
- 2016: Comprehensive Addiction and Recovery Act (CARA)
 - modified CAPTA and guidance for POSC
 - Provided more guidance on what the PoSC should cover and when it should be completed
 - Clarified population to be served by PoSC
 - Removed reference to “illegal” substances
 - Specified data to be reported by States to the maximum extent practicable



2016 Comprehensive Addiction and Recovery Act (CARA): Referral v. Notification

“policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder, including a requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition in such infants, except that such notification shall not be construed to—

- (I) establish a definition under Federal law of what constitutes child abuse or neglect; or
- (II) require prosecution for any illegal action;”





Plans of Safe Care: CARA

CARA Primary Changes:

- Health care providers notify child protective services of infants born and identified as affected by prenatal substance exposure, and
- A plan of safe care is developed that addresses the needs of both the infant and the affected family or caregiver.
- ALL infants with prenatal substance exposure should receive a POSC
- In Colorado, CDHS Division of Child Welfare has been tasked with developing state policies and procedures and ensuring federal reporting and compliance.



COLORADO

Department of Human Services

A photograph of three young children in a classroom, viewed from behind. They are standing at a table with various educational toys like an abacus and alphabet blocks. The image has a light blue overlay.

Colorado Plans of Safe Care



COLORADO
Department of Human Services

A Timeline of PoSC in Colorado

Colorado Systems Integration Model for Infants (C-SIMI)

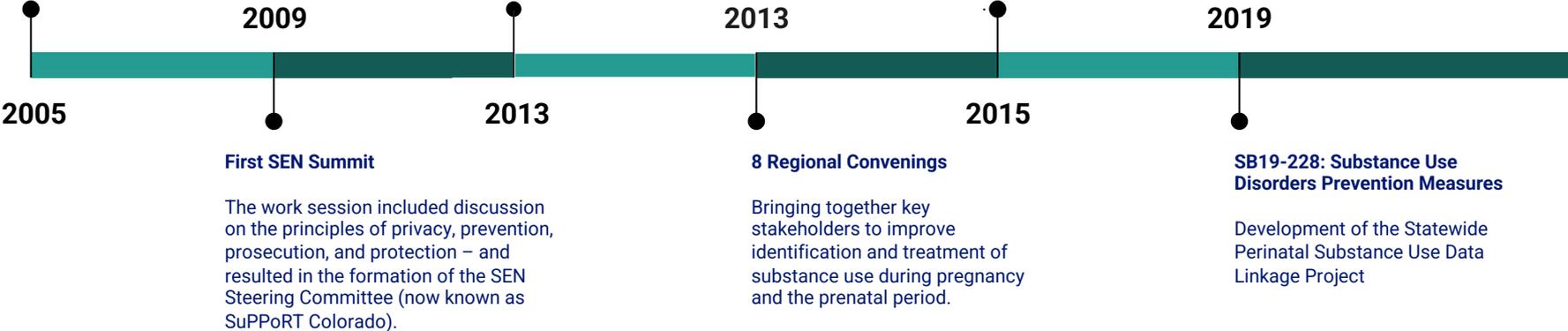
Project designed to develop and test a new model to integrate best practice approaches from child welfare, drug treatment, health care and legal systems involved with substance exposed infants and their families.

CRS 13-25-136

A court shall not admit in a criminal proceeding information relating to substance use not otherwise required to be reported pursuant to section 19-3-304, C.R.S. ., obtained as part of a screening or test performed to determine pregnancy or to provide prenatal care for a pregnant woman.

SEN Hospital Learning Collaborative

Increase consistency in implementation of best practice approaches in identification of and response to newborns prenatally exposed to substances at time of birth across Colorado. Becomes what is now CHoSEN



A Timeline of PoSC in Colorado

HB19-1193: Behavioral Health Supports for High-Risk Families

- Allows behavioral health referrals postpartum
- Allows the state to use state dollars to enroll postpartum women
- Extends criminal protection for conversations with health and behavioral health providers about substance use during pregnancy
- Funds child care and SUD treatment pilots

Revisions to the Colorado Children's Code

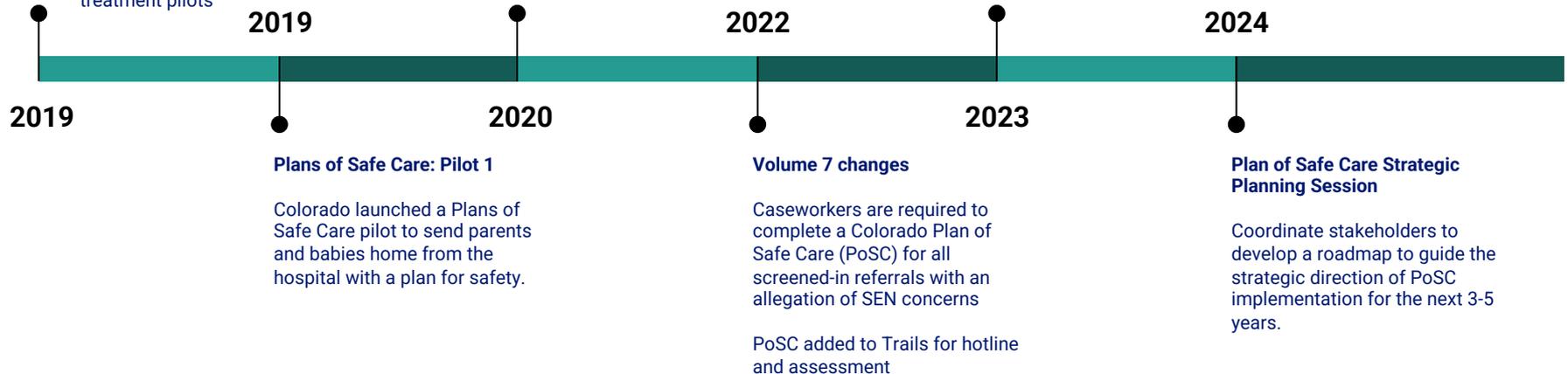
Changes in the definition of abuse and neglect for infants with prenatal substance exposure.

SuPPoRT Colorado

Continues to enhance cross system understanding of perinatal substance use and utilization of PoSC. Key activities include:
- Develops Best Practice Guide
- Indications for Toxicology Testing

Plans of Safe Care: Pilot 2

The Colorado Department of Human Services, Division of Child Welfare resources a pilot to align and accelerate POSC progress based on Perinatal Data Linkage Project findings





Colorado Plans of Safe Care

Addresses the substance use needs/impact of both the infant and the affected family or caregiver.

Ideally, the plan is established during pregnancy, prior to child welfare involvement and the plan is developed by a multidisciplinary team with the pregnant person. This is a living document that the caregiver should have a physical copy of.

The work done to create a robust Plan of Safe Care may negate the need for child welfare involvement after the birth of the child due to supportive people becoming involved and treatment opportunities prenatally.

If a PoSC has not been created at the time that a CW referral for a SEN concern is accepted for assessment, a caseworker is required to complete a PoSC.



Infant's Medical Care

- Prenatal exposure history
- Medical or developmental concerns
- Pediatric care/ specialty care referral and follow-ups
- Discharge medications
- Feeding plan

Supports/Services for Infant

- Child developmental specialist
- Referral to early intervention
- Child care assistance
- Public health nursing services
- Home visiting programs

Parenting Supports/ Education

- Public health nursing program
- Parenting groups
- Home visiting program
- Sober caregiving plan
- Safe sleep
- Safe storage
- Medical care needs of infant
- Chestfeeding and substance use

Birth Person's Healthcare Needs

- Prenatal care hx
- Pregnancy hx
- Medical concerns
- Follow-up care with OB-GYN
- Family planning
- Lactation/feeding support

Birth Person's Substance Use and Mental Health Needs

- Substance use hx and needs
- Mental health hx and needs
- Treatment hx and needs
- MAT/MOUD hx and needs
- Referral for services
- Postpartum supports
- Peer support

Household Needs/Supports

- Diapers
- Car seat
- Formula
- Bottles
- Safe Sleep space
- Housing
- Transportation
- Financial/ Food assistance



Changes to Colorado Statute and Rule



COLORADO
Department of Human Services



Colorado Rule

2020

- Change in Definition of Abuse and Neglect

2022:

Volume 7 changes

- Defines PoSC in Colorado
- Identifies when a PoSC shall be completed in child welfare and by whom (7.107.5)



COLORADO

Department of Human Services

Historical Regulations Defining Child Abuse & Neglect in Colorado

SECTION 4. In Colorado Revised Statutes, 19-1-103, **amend** (1)(a)(VII) as follows:

19-1-103. Definitions. As used in this title 19 or in the specified portion of this title 19, unless the context otherwise requires:

(1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of article 3 of this title 19, means an act or omission in one of the following categories that threatens the health or welfare of a child:

(VII) Any case in which a child tests positive at birth for either a schedule I controlled substance, as defined in section 18-18-203, C.R.S., or a schedule II controlled substance, as defined in section 18-18-204, C.R.S., unless the child tests positive for a schedule II controlled substance as a

~~result of the mother's lawful intake of such substance as prescribed~~ IS BORN AFFECTED BY ALCOHOL OR SUBSTANCE EXPOSURE, EXCEPT WHEN TAKEN AS PRESCRIBED OR RECOMMENDED AND MONITORED BY A LICENSED HEALTH CARE PROVIDER, AND THE NEWBORN CHILD'S HEALTH OR WELFARE IS THREATENED BY SUBSTANCE USE;

SECTION 5. In Colorado Revised Statutes, 19-3-102, **amend** (1)(g) as follows:

19-3-102. Neglected or dependent child. (1) A child is neglected or dependent if:

(g) ~~The child tests positive at birth for either a schedule I controlled substance, as defined in section 18-18-203, C.R.S., or a schedule II controlled substance, as defined in section 18-18-204, C.R.S., unless the child tests positive for a schedule II controlled substance as a result of the mother's lawful intake of such substance as prescribed~~ IS BORN AFFECTED BY ALCOHOL OR SUBSTANCE EXPOSURE, EXCEPT WHEN TAKEN AS PRESCRIBED OR RECOMMENDED AND MONITORED BY A LICENSED HEALTH CARE PROVIDER, AND THE NEWBORN CHILD'S HEALTH OR WELFARE IS THREATENED BY SUBSTANCE USE.



Current Definition of Abuse and Neglect

SB20-028 Substance Use Disorder Recovery changed the definition of child abuse and neglect for Substance Exposed Newborns:

“Any case in which a child is born **affected by** alcohol or substance exposure except when taken as prescribed or recommended and monitored by a licensed healthcare provider, **and** the newborn child’s health or welfare is **threatened by** substance use,”

- CRS 19-1-103(1)(a)(IV)



Key statute and definitions for Colorado Child Welfare practice and PoSC

7.000.2-A Definitions

- Affected by Alcohol or Substance Exposure

A child is born affected by alcohol or substance exposure when it impacts the child's physical, developmental, and/or behavioral response.

- Threatened by Substance Use

The newborn child's health or welfare is threatened by substance use when the medical, physical, and/or developmental needs of the newborn child is likely to be inadequately met or likely unable to be met by parents and/or caregiver.





Colorado Statute

The Takeaway:

- Substance exposure of a newborn no longer requires an automatic call to child welfare
- De-emphasizes the focus on a toxicology test (toxicology tests are just one of many tools in the tool belt)
- Removes the references to the federal schedule of substances
- Elevates impacts to the child as the main consideration
- Advances a two-generation approach to keep parents and their children together during treatment
- Increases alignment with federal law



COLORADO

Department of Human Services



Colorado Plans of Safe Care

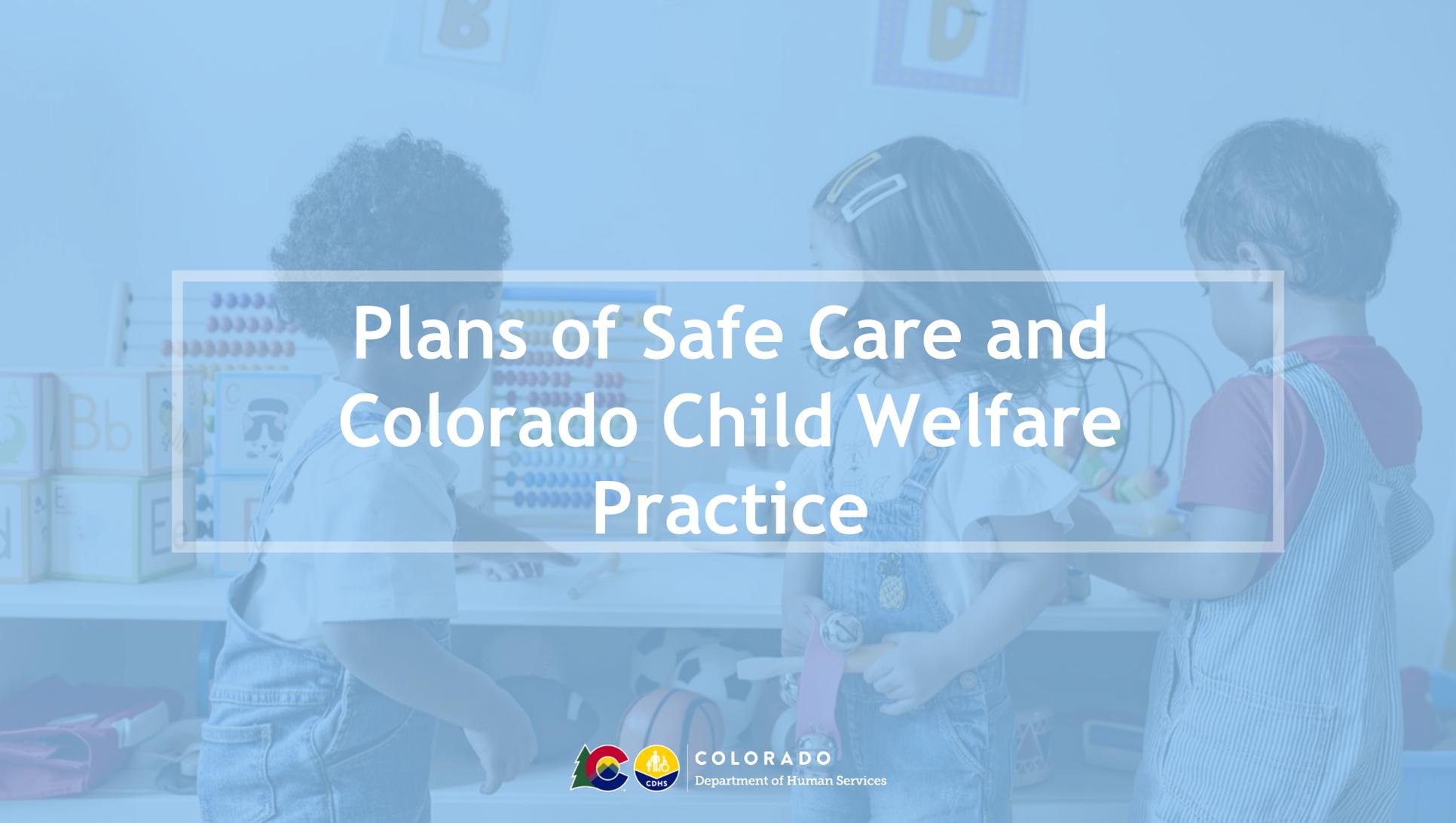
“A plan of safe care is a collaborative process to create a documented plan for the health, safety, and well-being of an infant reported with prenatal substance exposure, following the infant's release from the care of a healthcare provider, and address the health, support, and substance use treatment needs of the affected family or caregiver(s) according to the requirements outlined in section 7.107.5 (12 ccr 2509-2).”

-12 CCR 2509-1; 7.000.2-A Definitions



COLORADO

Department of Human Services

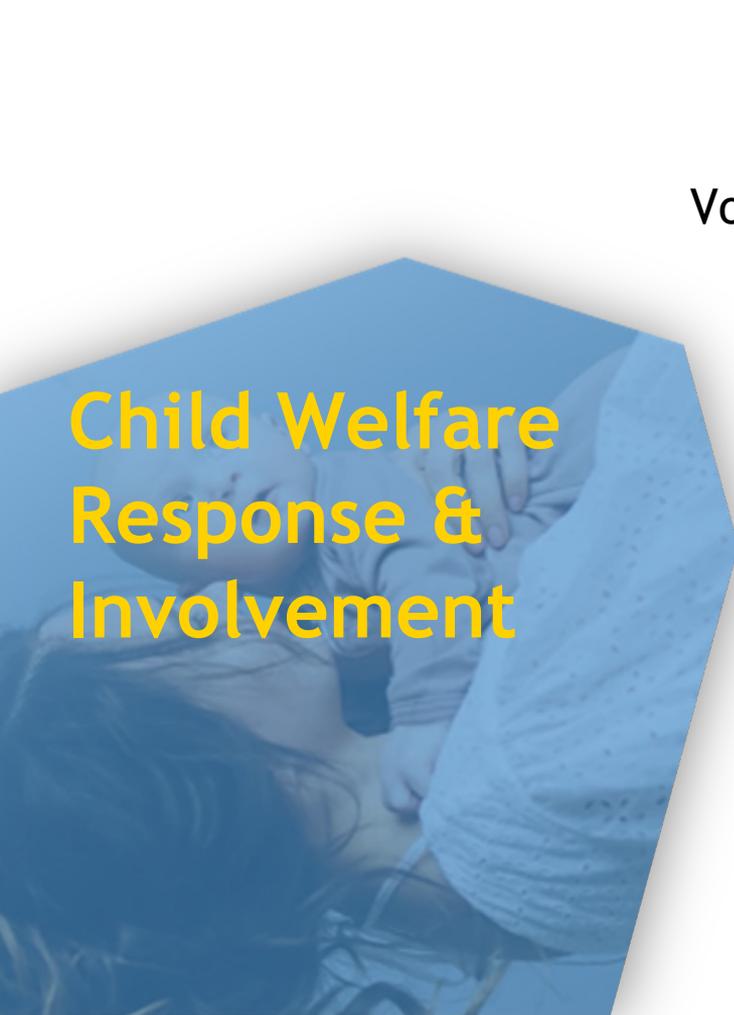


Plans of Safe Care and Colorado Child Welfare Practice



COLORADO

Department of Human Services



Child Welfare Response & Involvement

Volume 7 Changes (cont):

- Hotline staff are required to ask PoSC questions when SEN is an identified referral reason
(12 CCR 2509-2- 7.103.5(e))
- Caseworkers are required to complete a PoSC for all screened-in referrals with an allegation of SEN concerns if one has not already been created
(12 CCR 2509-1 7.000.2(A) Definitions & 12 CCR 2509-2 7.1000 Referral and Assessment)
- The Colorado Plan of Safe Care must be completed with the parent/caregiver(s) and based on based on the interview or observation of the alleged victim child(ren) and in collaboration with medical providers and others who may be a part of the plan (12 CCR 2509-2- 7.104.12(K))



COLORADO

Department of Human Services



Child Welfare Response & Involvement

5 questions child welfare hotline staff are prompted to ask when SEN is identified as a referral concern:

1. Was the infant born substance exposed? If “Yes”
Infant Exposure
1. Is the infant experiencing withdrawal symptoms?
1. Was a plan of safe care or safe discharge plan created?
1. Was the infant born with physical impairments associated with substance exposure?
1. Were resources, referrals, or services offered for the infant and caregiver to address their health and substance use treatment needs?



Share what you know with a trained call taker

Team of caseworkers determines if abuse or neglect may have occurred*



Approximately **70%** of children and youth stay safely at home while their family received services

Important to note:

- Due to confidentiality laws, information about the outcome of a call is only available to certain callers, such as the parents or a mandatory reporter who is professionally involved with the child or youth.
- If you continue to be concerned, please continue to call the hotline.

*Child abuse and neglect is defined within Colorado state law. Only those concerns that allege child abuse and neglect are assessed further by a caseworker.

What is the response time??

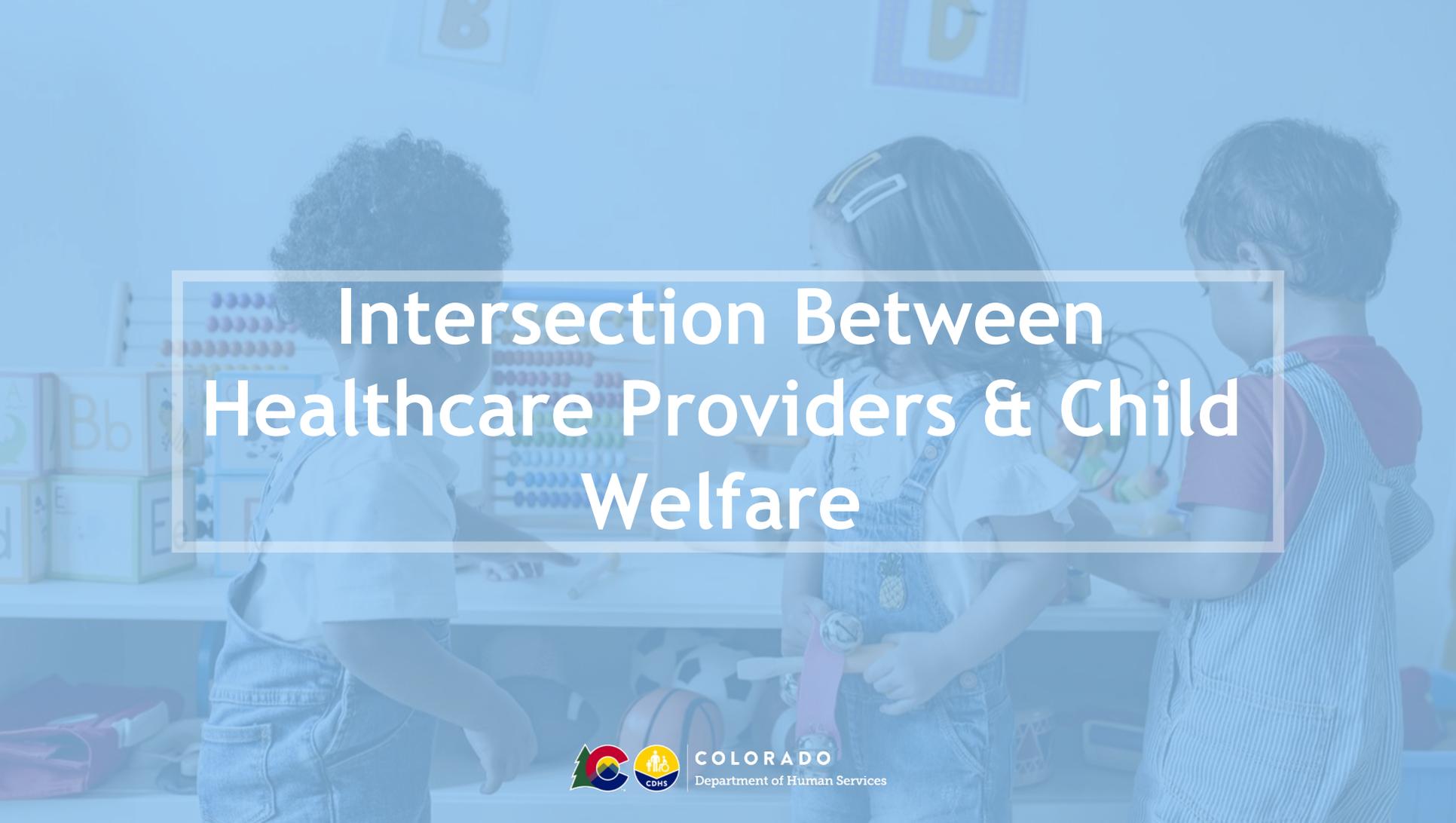
It could be 8 hours, 3 or 5 calendar days-

The decision of how quickly to initiate an assessment is based on specific reported information that is credible and indicates whether a child may be unsafe or at risk of harm as defined in statute (7.103.61)

Mandatory questions for PoSC - healthcare provider input is essential

1. Is there a plan of safe care or safe discharge plan? *This includes any plan which addresses the health and substance use treatment needs of the infant and affected caregiver. Ask provider for a copy of the plan*
2. Has the infant or caregiver received resources, referrals, or services to address their health and substance use treatment needs? (if yes, asked to identify them)
3. Is the infant experiencing withdrawal symptoms? (if yes, asked to identify them)
 - a. If “Yes” caseworker is also asked to “Describe support plan,” specific to the symptoms of withdrawal i.e.: Plans for nutrition and medical care, required supplies, PCP appointments, identification of community resources and treatment programs, assessment of home environment, emergency care plan, transportation, and financial resources.
4. Can the infant eat more than 1oz during a single feeding, sleep at least an hour at a time, or be consoled within 10 minutes of crying?
5. Do parents/caregiver display competency in the care taking of the infant?
6. Can parent/caregiver assume full responsibility for the infants care?
7. Have 2 caregivers been identified to help support the care taking of the infant?
 - a. If “yes” - asked to identify
 - b. If “no” - asked to “Describe the caregivers support plan” i.e.: Plans for nutrition and medical care, required supplies, PCP appointments, identification of community resources and treatment programs, assessment of home environment, emergency care plan, transportation, and financial resources.





Intersection Between Healthcare Providers & Child Welfare



COLORADO
Department of Human Services

IT TAKES A TEAM TO CREATE PLANS OF SAFE CARE

Hospital Care

Nurse Navigator
OB/GYN, Perinatology
Neonatologists, NNP, NICU,
RN, NICU
Pharmacist
Lactation
RN's/ Bedside staff
Cuddlers

Community Support

Human Services
Nurse Family Partnership
Visiting Home Nurse
Health Harbors
Health Care Program for
Children
Early Intervention

Developmental Services

Pediatric occupational,
Physical, Speech language
therapists,
NICU staff maintaining
focus on individualized
developmentally supportive
care



“POSC should move beyond a mechanism for child welfare compliance to be leveraged as a mechanism for state innovation around coordinated service delivery... Together we can cultivate a culture of collaborative responsibility for ensuring Colorado families have every opportunity to thrive.”

C. Everson, PhD, et al - “Coordinating Care & Support for Families Affected by Prenatal Substance Use: Developing a Data-Informed Strategic Framework for Plans of Safe Care in Colorado”



Client Population

Families involved in child welfare with children under the age of 1 impacted by caregiver and/or perinatal substance use.

- > 2% of CW reports
- Most contact begins with hospital system
 - 88% of referrals come from the medical system
 - 63% of referrals from hospital social worker

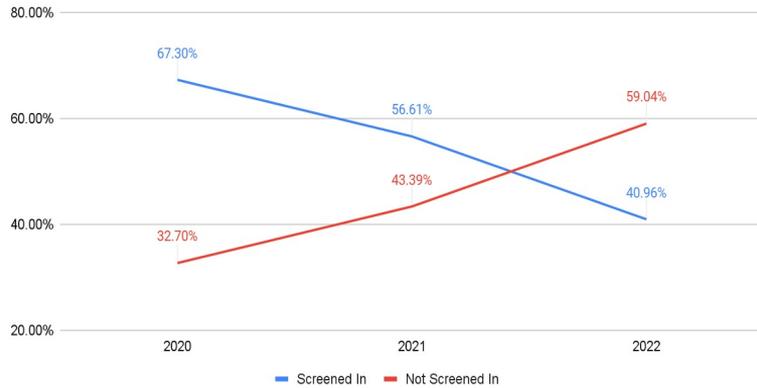


Point of Referral

- The number of referrals for substance exposure of a newborn that are screened in has been declining and now better matches overall Colorado report trends
- The % of new screened-ins referrals from previously screened out families in 2020 was 33%. Over 90% of those are identified as “minor severity”
 - The most common time frame for recurrence in 2020 was greater than 1 year, suggesting it was not related to the original referral for substance exposure of newborn

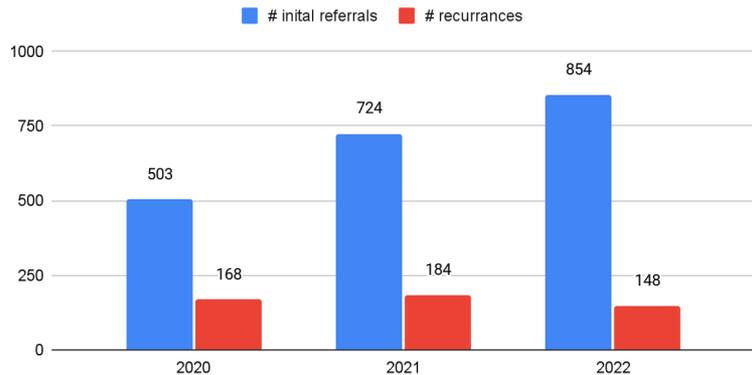
*Suggesting that the majority of families screened out do not get referred back to child welfare for a related and more serious concern

Substance Exposed Newborn Screening Status



Total screened out referrals vs screened in recurrences

01/01/2020 - 12/31/2022



Plans of Safe Care: Why Should Hospitals and Child Welfare Collaborate?

- Per the Administration for Children and Families (of US DHHS): “the development of a Plan of Safe Care is required whether or not the circumstances constitute child maltreatment under state law.”
- Infants born with evidence of in utero substance exposure do not always require the support of child welfare services (ex: infant born to parent stable in treatment program); however, POSC will still improve the care of this infant and his/her caregivers by addressing broader needs of the infant and family



COLORADO

Department of Human Services

Birth Hospitalization Implementation

Education- Cooperation- Collaboration

- Education on admission regarding birth hospitalization expectations
 - NOWS symptoms, ESC, feeding goals, indications for escalations in care, importance of family/caregiver engagement, 5 S's
 - Discharge readiness criteria
 - Plan of Safe Care development/updates
- Early involvement of unit LCSW and/or Care Management
 - Assessment/inventory of needs
 - Follow-up on previous referrals
 - Initiate new referrals
- Collaboration with birthing person's provider team
 - Addiction Medicine and Behavioral Health support, if indicated
 - Facilitating rooming-in
 - Ensuring access to MOUD
- Involvement with DHS/CPS is NOT mandatory for infants with in utero substance exposure and a positive toxicology test alone does NOT require a DHS/CPS call

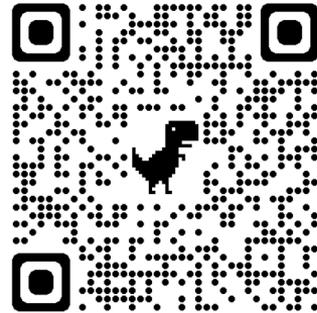
Birth Hospitalization Implementation

- Initiation at time of H&P documentation and frequently update throughout birth hospitalization
 - Problem based charting:
 - Consider using problem “Care Plan Discussed with Patient”
 - Ensure LCSW access to problem list → can usually be facilitated by clinic/hospital based EMR support specialists
 - Standard charting/documentation: Consider using a note template that may be shared during birth hospitalization → allows for updates by multiple providers during admission
- If family plans follow-up with clinic outside of healthcare system, consider faxing with H&P and DC summary and provide family a copy (ensure that family understands document contains sensitive information)

Current Supports for healthcare teams



- [Best Practice Recommendations for Plans of Safe Care](#)
- Plan of Safe Care flow charts
- Template for hospital electronic chart system
- Lunch and learns and trainings



COLORADO

Department of Human Services



Challenges



COLORADO

Department of Human Services



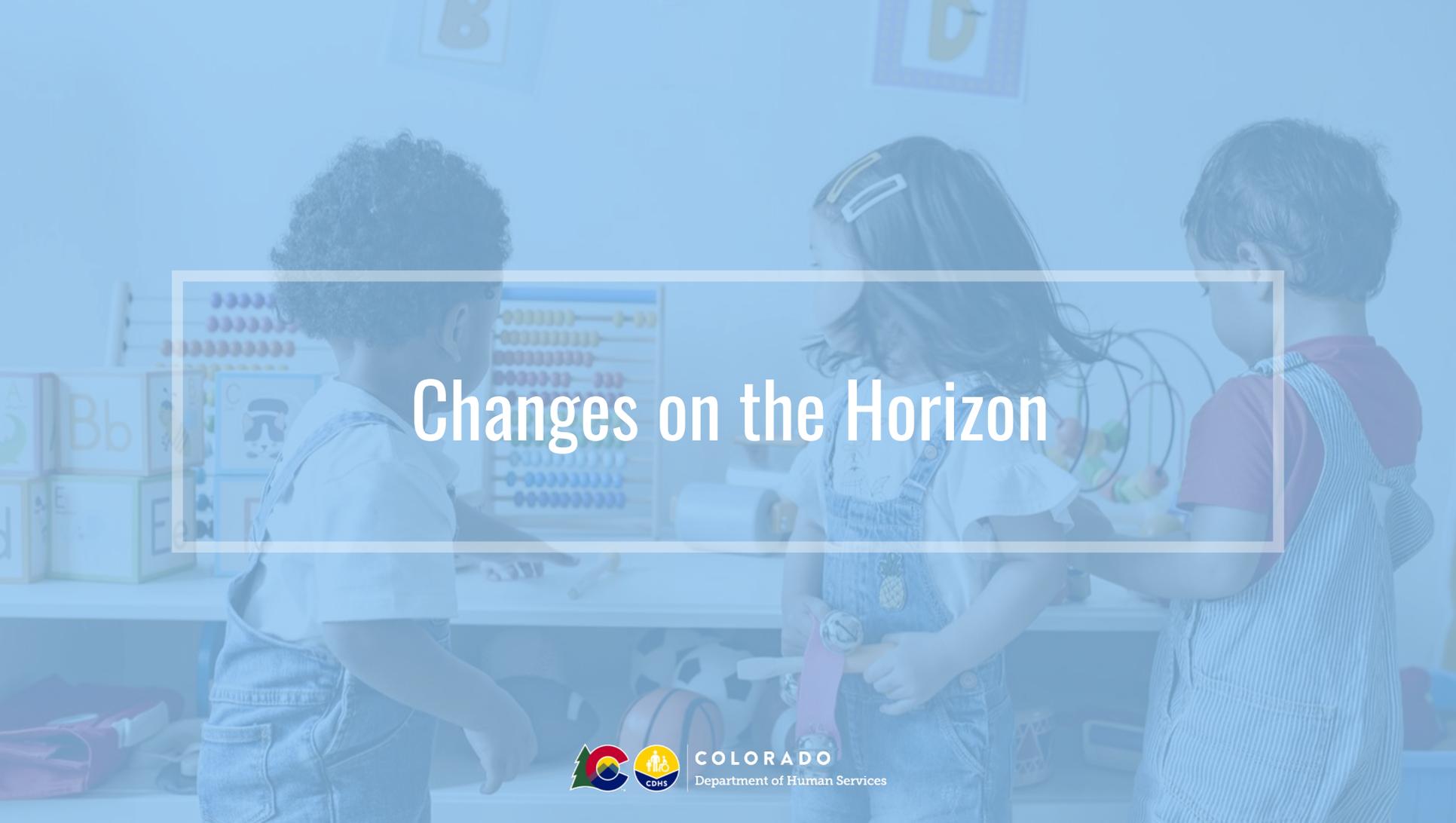
Challenges

- State supervised county administered
- Knowledge gaps
- Mandatory reporting requirements
- Lack of clear roles and responsibilities
- The role of judicial partners
- Referral v Notification
- Toxicology



COLORADO

Department of Human Services



Changes on the Horizon



COLORADO

Department of Human Services

Enhancing Implementation

- Toolkits
 - Standardized PoSC templates across the state
 - Decision support flow charts for different sectors
 - *Anything that would help your teams?*
- Landing Page
- Training and TA Opportunities
 - Regional forums
- Increase support for prenatal plans of safe care
- PoSC collaborative learning exchanges and office hours



COLORADO

Department of Human Services



Plans of Safe Care: CARA

‘.....including a requirement that **health care providers involved in the delivery or care of such infants notify the child protective services** system of the occurrence of such condition in such infants, except that such **notification shall not be construed to—**

- (I) establish a definition under Federal law of what constitutes child abuse or neglect; or**
- (II) require prosecution for any illegal action;**

FEDERAL LAW (EXCERPT) 106(b)(2)(B)(ii)



COLORADO

Department of Human Services

A photograph of three young children in a classroom. On the left, a young boy with curly hair, wearing a white shirt and denim overalls, looks towards the center. In the middle, a young girl with long hair and a white shirt with denim overalls holds a wooden spoon with a pink ribbon tied around its handle. On the right, another young boy with short hair, wearing a red shirt and striped overalls, looks towards the girl. The background shows a classroom with alphabet blocks, an abacus, and a fruit basket. The entire image is overlaid with a light blue tint and a white rectangular frame.

Resources



COLORADO

Department of Human Services



National Resources

- [National Center on Substance Abuse and Child Welfare](#)

Colorado Resources

- [2021 Policy Brief: Plans of Safe Care to Support Families Impacted by Perinatal Substance Use Disorders](#)
- [CDHS Operation Memo: Plan of Safe Care Volume 7 - New Rule](#)
- [CDHS Operation Memo: Substance Exposed Newborn definition of Abuse and Neglect & Child Protection Task Group](#)
- [Colorado Plan of Safe Care Website](#)
- [Plan of Safe Care Best Practices](#)
- [Indications for Toxicology Testing](#)

