

Prenatal exposure to illegal substances: Exploring alternatives to fetal assault bills

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Near completion of my rounds at a residential substance abuse treatment center, my last patient was a 32-year-old mother. She reported she was there because her newborn had tested positive for cocaine. She stated, "I want to do better. I thought this pregnancy would change things, but it was so hard to stop." Her admission made me reflect on a proposed bill in my state of Tennessee called the Fetal Assault Bill, which if put into law would affect women such as my patient and her newborn child.

The Tennessee Fetal Assault Bill was originally enacted in 2014, expired in 2016, and failed to pass in 2017. The bill was reintroduced for consideration in February 2019. If enacted, it would subject a woman to prosecution if her illegal use of a substance while pregnant causes her child to be born addicted to or harmed by that drug. However, the mother is protected from prosecution if she "enrolled in an addiction recovery program before the child is born, remained in the program after delivery, and successfully completed the program, regardless of whether the child was born addicted to or harmed by the narcotic drug."¹ This bill is based on the premise that the unborn fetus has the same rights as a born child, and that the threat of incarceration will deter pregnant women from using illegal substances while pregnant.

Pregnant women may enroll in a drug treatment program prior to delivery to avoid prosecution; however, there is a paucity of addiction treatment centers available to pregnant women. Moreover, there

is limited access in areas where babies are more likely to be born affected by the use of illegal substances. Few provisions have been made to address the additional barriers to treatment these women face, such as a lack of insurance or underinsurance for rehabilitation treatment, lack of transportation, and limited finances. Additional barriers include limited social supports, the need for childcare arrangements for existing children, and social stigma.

A 2017 report by Amnesty International regarding the original enactment of the Tennessee Fetal Assault Bill in 2014 noted some mothers who used illegal substances were afraid of prosecution.² This fear caused some to delay prenatal care or evade social services in order to prevent being reported. According to Amnesty International, laws such as the one proposed in Tennessee often show disparities in how they are implemented. Research shows that women of lower socioeconomic status and minorities tend to receive more frequent drug testing and harsher punishments.³

There are benefits to dedicating more resources to addiction treatment and other social services for pregnant women who use illegal substances. Reports show that



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Clinical Point

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mothers are motivated to stay abstinent in treatment centers where they are housed with their children. This model of treatment is more cost-effective than incarceration, which includes legal costs, prison costs, and foster care bills. Moreover, a possible felony charge may hinder a woman's job opportunities and further compound her problems and those of her infant.

In the light of these benefits, instead of re-enacting the 2014 law, which did not yield any conclusive benefits for newborns or mothers who used illegal substances, alternatives should be attempted. Early identification of and interventions for women who are at risk for substance use while pregnant should be implemented. Practical, accessible support services will encourage sobriety, prevent fetal exposure to illegal substances, and improve child health outcomes. Research shows that substance

abuse treatment during pregnancy reduces the risk of harm before birth and improves the quality of parental care after birth.⁴ Legislators and clinicians should emphasize improving access to treatment, expanding integrative addiction treatment centers, and encouraging self-reporting early in pregnancy. This goal cannot be achieved with an emphasis on incarcerating mothers.

References

1. House Bill 1168. 111th Tennessee General Assembly (Tenn 2019). <http://www.capitol.tn.gov/Bills/111/Bill/HB1168.pdf>. Accessed August 8, 2019.
2. Amnesty International. Criminalizing pregnancy: policing pregnant women who use drugs in the USA. <https://www.amnesty.org/download/Documents/AMR5162032017ENGLISH.pdf>. Published May 23, 2017. Accessed August 8, 2019.
3. Paltrow LM, Flavin J. Arrests of and forced interventions on pregnant women in the United States, 1973-2005: implications for women's legal status and public health. *J Health Polit Policy Law*. 2013;38(2):299-343.
4. Ashley OS, Marsden ME, Brady TM. Effectiveness of substance abuse treatment programming for women: a review. *Am J Drug Alcohol Abuse*. 2003;29(1):19-53.



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