

# How Mississippi falls short in complying with federal child abuse law

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The Mississippi flag flew below the the American flag at the Chancery Court Building in downtown Kosciusko, Miss. ERIN CLARK FOR THE BOSTON GLOBE

**T**he Globe and ProPublica assessed Mississippi and every other state as either noncompliant, partially compliant, or fully compliant with federal child abuse law based on five key provisions of the Child Abuse Prevention and Treatment Act, or CAPTA. Surveys were sent to states in August 2017, and states were provided several opportunities to update information as late as August 2019.

The Globe and ProPublica found that Mississippi fully complied with only one of the five provisions, identifying children who are most at risk of being abused. The news

organizations found Mississippi partially compliant with the other four provisions.

Jess Dickinson, commissioner of Mississippi's child welfare department, accepted the Globe and ProPublica's findings. "We're not perfect yet," she said, "but Mississippi is making great strides to be in full compliance with all federal requirements. . . . This is an ongoing partnership and we feel we are headed in the right direction."

## **1) Protecting drug-affected infants: partially compliant**

The federal Children's Bureau last year found Mississippi compliant with the requirement that the state establish "plans of safe care" to protect all drug-affected newborns. But a closer review shows that Mississippi still falls short.

Mississippi's child welfare agency largely follows the federal law. Plans are created by Child Protection Services together with medical or addiction experts and infants' parents or family members, and apply to infants affected by both illegal and legal drugs.

Governor Phil Bryant signed an assurance that the state was compliant with the updated law in May 2018.

The state agency told the Globe and ProPublica in August 2019 that it had notified "all Mississippi medical providers by letter" of the updated requirements and had held informational sessions for providers "and will continue to do so on an annual basis."

But the Globe and ProPublica found that medical professionals often circumvent state law, citing hospital policies. For instance, Kelly A. Spell, a spokeswoman for Madison River Oaks Medical Center, the hospital where Jasmine Irwin was born, wrote in an e-mail that the hospital has no policies related to treatment of drug-affected newborns. The decision of whether or not to do drug-testing is "made by the physician based on the symptomology of the patient and the clinical expertise and judgment of the physician," Spell said.

Additionally, the doctor who took over Jasmine's care a day after her birth said in an interview that he had never even heard of the term "plan of safe care" even though it is widely used by child protection officials to describe efforts to protect drug-affected infants.

Some nurses and doctors anonymously call a state abuse hot line rather than creating an official plan for drug-affected children, allowing them to discharge the family without a plan to protect the child. The result is that in a state struggling with opioid addiction — Mississippi is among those with the highest number of prescriptions per person for opioids — the agency received just 155 reports of drug-affected infants in fiscal year 2018.

## **2) Identifying children most at risk: compliant**

Mississippi classifies child abuse reports using a system that tries to separate cases by risk faced by the children, and state officials fully report the different responses that families receive. Cases deemed low-risk typically involve a more family-friendly approach.

## **3) Representing children in court: partially compliant**

Mississippi officials say that every child gets a lawyer to serve as their guardian ad litem in court, but data provided by the Mississippi Supreme Court does not support this. The courts provided county-level data over a three-year period. Assessing the data, the Globe and ProPublica found that in 2018 there were 7,533 protection cases that had at least one hearing, and that guardians ad litem appeared at 6,329 of them.

The agency explained that some courts were "delinquent on their postings" making it appear as though some children had not received guardians ad litem.

But the problem was remarkably widespread: 70 of Mississippi's 82 county courts showed data that suggested some children did not get guardians ad litem, including three

in which no guardians were assigned at all.

#### **4) Tracking child abuse and neglect deaths: partially compliant**

A survey response by Mississippi officials indicated the state provided all information required under CAPTA, but state officials declined to share death reports with the Globe and ProPublica based on state privacy laws pertaining to child welfare records. The state provided a database that did not include all required information — no information on the cause or circumstances of the deaths was provided, nor was any information about the age or gender of the children. The state released no data on near fatalities, and indicated that Mississippi state law does not define “near fatality” and so no guidelines exist for reporting this information.

Mississippi noted in August that during this year’s legislative session the agency had “successfully lobbied for an amendment” to the state law that had prohibited it from providing the missing information. The amendment took effect on July 1, 2019, and the agency said it “will cover future requests for this information.”

#### **5) A chance to clear their names: partially compliant**

Mississippi keeps a central registry of those deemed to have abused or neglected children, as mandated by state law. In keeping with CAPTA, the state has an administrative process within the agency that allows individuals to appeal the substantiated report. Some of those individuals are placed on the Central Registry, and they may in turn appeal to the Mississippi Supreme Court to get their names removed from the registry. The state could not provide data on appealed cases, however, so it is unclear if the state is complying with the mandate to have an appeals process.

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