

Drug and alcohol use by pregnant women: the evolution of state policies

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Policymakers and public health experts have long recognized the harm that can come to fetuses if women use drugs during pregnancy. As U.S. states legalize marijuana and as governmental attention focuses on the "opioid crisis," state policies pertaining to drug use during pregnancy are increasingly important. A new study examines the scope of state policies targeting drug use during pregnancy, how they have evolved, and how they compare to policies related to alcohol use during pregnancy.

The researchers examined all statutes and regulations in U.S. states pertaining to drug and alcohol use by pregnant [women](#) from 1970-2016, the entire period during which states legislated in these areas.

Laws included in the analysis were:

- mandatory warning signs
- priority access to [substance abuse treatment](#) for pregnant women
- requirements to report evidence of drug use during pregnancy to law enforcement or child welfare agencies— or to a health authority for the purposes of data gathering and treatment
- laws that define drug use during pregnancy as child abuse/child neglect
- laws that limit toxicological tests as evidence in criminal prosecutions of fetal or child harm
- mandatory involuntary commitment of pregnant women to treatment or to protective custody.

Policies were analyzed individually as well as classified as punitive toward or supportive of women. Punitive policies seek to control pregnant women's behavior through threats of sanctions. Supportive policies seek to provide information, early intervention, and treatment and services to them.

Key Findings:

Drug/Pregnancy Policy

- The number of states with 1 or more drug/ pregnancy policies has increased substantially since 1970.
- As of 2016, the number of states with either punitive [policy](#) or mixed policy environments is 31; 12 states have supportive policies; 8 states have no policy.
- The most widely adopted supportive between 1970 and 2016 require reporting for data collection and/or treatment for women.
- The most widely adopted punitive policies were reporting requirements to CPS and defining drug use during pregnancy as child abuse/child neglect.
- The smallest increases from 1970 to 2016 were for the supportive policy of priority treatment for pregnant women (or pregnant women and women with children) and the punitive policy of civil commitment.
- Drug use during pregnancy policy environments have become less supportive over time. As of 2016, few states are supportive-only.

Comparing Drug/Pregnancy Policy to Alcohol Pregnancy Policy

- The most frequent drug use during pregnancy policies are

punitive, and the most frequent alcohol/pregnancy policies are supportive. Yet, when factoring in mandatory signage laws (24 for alcohol; 2 for drugs—recreational cannabis), there is not a great deal of difference between the remaining types policies

- The policy that could provide the most direct services to pregnant women—priority treatment laws are few whether the policy pertains to drugs or alcohol. For example, priority treatment for pregnant women with children is the least represented alcohol/pregnancy policy. For drug/pregnancy policies, only 5 [states](#) have priority treatment for women with children.

One implication of the trend toward punitive [drug](#) and alcohol/[pregnancy](#) policies is that that research to date shows that they deter [pregnant women](#) from seeking prenatal care and substance abuse [treatment](#). They also disproportionately negatively affect women of color.

More information: Sue Thomas et al, Drug Use During Pregnancy Policies in the United States From 1970 to 2016, *Contemporary Drug Problems* (2018). [DOI: 10.1177/0091450918790790](https://doi.org/10.1177/0091450918790790)

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