

Unborn Children – reporting concerns about safety and well-being

The object of the *Children, Young Persons and Their Families Act 1997 (the Act)* is to provide for the care and protection of children in a manner that maximises a child's opportunity to grow up in a safe and stable environment and to reach his or her full potential.

On 1 August 2009 new provisions in the Act came into effect. One of the amendments provides the Secretary of the DHHS with the ability to receive information concerning unborn children and to enable effective planning prior to the birth of a child who could be at risk.

What does this change mean?

A report can now be made to either the new Gateway Services or Child Protection Services about potential danger to an unborn child. This will enable adequate planning to take place prior to the birth of a child considered to be at risk. The intent of the amendments is to focus on providing support to the mother and/or her partner on a voluntary basis to prevent the need for Child Protection Services to become involved once the child is born.

What are some of the risk factors that may lead to a notification of an unborn child?

Any concerns regarding the safety, welfare or wellbeing of an unborn child after their birth should be reported. What constitutes a risk to the unborn child upon their birth will often be guided by the judgement of the person reporting the concern, and will include the perceived extent of risk to the child. Some factors that may lead to concerns for the unborn child upon their birth may include, but are not limited to:

- Significant alcohol or other drug abuse by caregiver/s*;
- Intellectual disability of caregiver/s to the degree that it significantly impairs the potential parenting capacity,
- Mental illness of caregiver/s to the degree that it impairs on their potential parenting capacity,
- Domestic/family violence involving the caregiver/s, or
- Previous abuse or neglect of another child/ren by someone who the child will reside with once born.

*NB: In this context the term 'caregiver/s' includes the pregnant woman and/or any other adult living in the home of the pregnant woman or who is intending to provide care for the child once born.

Who is affected by the change?

The Act provides that, if, while a woman is pregnant, an adult knows, believes or suspects on reasonable grounds that: the child of the pregnancy is reasonably likely to suffer abuse or neglect, or require medical treatment as a result of the woman's behaviour, or the behaviour of another person with whom the woman resides or is likely to reside with, the adult has a responsibility to take steps to prevent the occurrence of that abuse, neglect or behaviour. One way that an adult can discharge this responsibility is to report their knowledge, belief or suspicion to Child Protection Services or a Gateway Service.

Prescribed persons (who are often called ‘mandatory reporters’) have a special duty to inform the Child Protection Services or a Gateway Service before the birth of the child about their knowledge, belief or suspicion. Mandatory reporters may face penalties if they fail to inform Child Protection Services or a Gateway Service if they fail to report. A separate Fact Sheet for Mandatory Reports is available at www.dhhs.tas.gov.au/dcyfs/legislation/cyptfa.

The Act provides identity protection for the person making a notification about a child or unborn child to Child Protection Services, or to a Gateway Service.

How do I make a notification for an unborn child?

Notifications for unborn children can be made to either of the following Statewide services:

Gateway Service:	1800 171 233
Child Protection Intake:	1300 737 639

What should I do if I am not sure whether to make a report?

You may have concerns for potential risk to an unborn child, or believe that the family may require some support or intervention to assist them prior to, or following the birth of their child. By contacting the Gateway Service your concerns can be discussed and if appropriate support services can be offered to the family. If these supports are agreed to by the caregiver/s, the Gateway will then provide support and address any concerns prior to the birth of the child, thereby hopefully avoiding the future involvement of child protection.

By advising Gateway of your concerns, you are meeting your requirement to report under the Act, and, with a Child Protection worker based in each of the four regional Gateway Services, you can be confident that if Child Protection needs to be involved upon the child’s birth, the Gateway Services will directly refer information regarding the concerns for the child on to Child Protection services.

What happens once a notification is received?

Notifications received regarding unborn children will be assessed and appropriate family support service will be offered, through Gateway Services, to the mother and/or other family members on a voluntary basis. The intention of this early support is to assist and address concerns that may occur throughout the pregnancy and reduce the likelihood that the child, when born, will be at risk of harm.

Support services may include voluntary Intensive Family Support Services provided through the Gateway Services; or services through the Department of Health and Human Services such as Alcohol and Drug Services; Mental Health Services; and/or Disability Services.

Child Protection services will not become directly involved with the family until after the child has been born; and only where concerns regarding the child’s health and safety have not already been addressed through other means. The mother/caregiver is not obliged to accept the offer of support as these services are entirely voluntary.

If you have continue to have concerns about the unborn child, or become aware of new information concerning the behaviour of the parent/s, please contact either Child Protection or the Gateway Service again and advise them of your concerns.

What happens if the family refuses the support services that are offered?

If the mother and/or family members do not engage with the family support services offered through the Gateway Service or other appropriate service, or if, after a short period of time, they stop participating with the support service, Child Protection Services will be advised and may need to become involved with the family after the birth of the child to ensure the baby's safety.

The mother and/or family members' decision to actively participate in the support services offered (or not) will be a key factor in the risk assessment undertaken upon the birth of the child, which will determine any subsequent child protection interventions.

Further information

A comprehensive website covering the legislative amendments is available at:

<http://www.dhhs.tas.gov.au/dcyfs/legislation/cyptfa/>

Other information sheets are also available on the site above and include:

- Information Sharing,
- Responsibilities of Mandatory Reporters, and
- Overview of Legislative Amendments.

To arrange an information session or seek advice, please contact Policy and Programs, Disability, Child, Youth and Family Services on 6233 4895 or cpmanual@dhhs.tas.gov.au.

Important note: This information does not constitute legal advice. If more information is required, consult the relevant legislation or a legal adviser, as necessary.

Disclaimer: While reasonable efforts have been made to ensure that the contents of this document are correct, the Crown in Right of the State of Tasmania, its agencies and employees, do not accept responsibility for the accuracy or completeness of the contents, and is not liable to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the contents of this document.