

Legal Brief

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Newborn Screening and Reporting

This Legal Brief was drafted for general informational purposes only. It is not meant to be a comprehensive guide, nor should it be construed as legal advice. The information in this brief is current as of July 1, 2018; readers should consult the most recent versions of referenced statutes, regulations, and cases to ensure there have been no material changes.

Summary

All infants born in the state of South Dakota must be screened for metabolic, inherited and genetic disorders, including severe combined immunodeficiency (SCID), phenylketonuria, hypothyroidism, and galactosemia. In addition, all hospitals which routinely provide obstetrical services and birth centers must screen newborns for congenital heart defects through the use of pulse oximetry. The physician having charge of a case of childbirth must also inform the parents or guardians of the newborn infant of the possibility of ophthalmia neonatorum and give advice for the prevention of its development.

Physicians, other health care providers, hospitals, and clinics are also required to report certain other conditions observed in newborns.

Discussion

Mandatory Newborn Screenings

South Dakota law requires physicians, nurses, and midwives in attendance on or having charge of a case of childbirth to inform the parents or guardians of the newborn infant as to the possibility of the occurrence of ophthalmia neonatorum, its dangers and possible consequences. They are also required to advise the parents concerning the prevention of its development through the use of such prophylactic or preventive measures prescribed for such purpose by the Department of Health, and to use those methods unless the parents object. SDCL 34-24-6, 34-24-8.

If a physician, nurse, parent, manager, or other person in charge of any hospital or other facility where births occur observe any symptoms of ophthalmia neonatorum within two (2) weeks of childbirth, the person doing so must, within eight (8) hours, make a report to the local health officer of the municipality, or other political subdivision where the infant is located. The initial report may be in writing, or it may be by telephone, followed by a written report. SDCL 34-24-9.

All infants born in this state must also be screened for severe combined immunodeficiency, phenylketonuria syndrome, hypothyroidism, galactosemia, and other metabolic diseases unless the parents or guardian objects in writing on the grounds that such tests and treatment conflict with their religious tenets and practices. SDCL 34-24-17 to 34-24-22. Tests for detecting metabolic disorders of newborn infants prescribed by the Department of Health include the testing for excessive phenylalanine in the serum of the newborn and for hypothyroidism in the newborn. The test results for a metabolic, inherited, and/or genetic disorder in infants must be reported to the Department of Health on forms prescribed and furnished by the Department to all physicians and hospitals. SDCL 34-24-23.

Effective July 1, 2013, hospitals which routinely provide obstetrical services and birth centers shall provide screening of newborns for congenital heart defects through the use of a pulse oximetry test. SDCL 34-24-32.

In addition, physicians are required to report suspected cases of severe visual impairment and physicians, other health care providers, hospitals, and clinics are required to report identified or suspected cases of fetal alcohol syndrome. The reports are to be made to the Department of Health. SDCL 34-24-26, 34-24-27.

Reports made to the Department of Health are confidential. No person may be subject to a civil action or criminal prosecution for acts taken in good faith in an effort to comply with the fetal alcohol syndrome reporting requirement. SDCL 34-24-28, 34-24-30, 34-24-31.

See also **Registration of Births**.

Optional Newborn Screenings

Effective July 1, 2018, health care practitioners who have reason to believe based on a medical assessment of a mother or a newborn infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy, may administer, with or without consent of the newborn's parent or guardian, a toxicology test to a newborn infant under their care, to determine whether there is evidence of prenatal exposure to a controlled substance.

If the test results are positive, the health care practitioner must report the results pursuant to SDCL 26-8a-8 to the person in charge of the institution or that person's designee. In turn, the institution shall immediately make an oral report to the state's attorney, the South Dakota Department of Social Services or to law enforcement personnel.

Conclusion

With early diagnosis and medical treatment, complications from serious but uncommon disorders may be prevented. Thus, all newborns in South Dakota are required by law to have a blood test shortly after birth to screen for metabolic, inherited and genetic disorders. Newborn screenings help identify babies who may have a disorder and alert medical providers for the possible need for further testing and/or special care.



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