RULE ADOPTIONS

CHILDREN AND FAMILIES

(a)

CHILD PROTECTION AND PERMANENCY

Substance-Affected Infants

Adopted New Rules: N.J.A.C. 3A:26-1.1 and 1.4

Adopted Amendment: N.J.A.C. 3A:26-1.2

Adopted Repeal: N.J.A.C. 3A:26-1.3

Adopted Recodification with Amendments: N.J.A.C. 3A:26-1.1 as 1.3

Proposed: August 4, 2025, at 57 N.J.R. 1639(a).
Adopted: December 19, 2025, by Christine Norbut Beyer, M.S.W., Commissioner, Department of Children and Families.
Filed: December 19, 2025, as R.2026 d.024, **with non-substantial changes** not requiring additional notice or public comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 9:3A-7f, 9:6-8.15, 26:2H-5, and 30:4C-4.h.

Effective Date: January 20, 2026.
Expiration Date: December 4, 2031.

Summary of Public Comments and Agency Responses:

One comment was received from Dionna King, MPH, Senior Technical Advisor, Kathryn Boulton, JD, MPH, Senior Legal Technical Advisor, Lindsey Kerins, MPH, Program Manager, and Derek Carr, JD, Legal Technical Advisor of Vital Strategies.

1. COMMENT: The commenter outlines its support for key changes in the proposed rule, including the rules prioritization of support over punishment, creation of a deidentified notification pathway, use of new and updated definitions of key terms: Family Care Plan, notification, instead of report, and substance-affected infant. The commenter also commends the Department of Children and Families (Department) for emphasizing voluntary services will be offered in response to notifications.

RESPONSE: The Department thanks the commenter for their support.

2. COMMENT: N.J.A.C. 3A:26-1.2. The commenter urges the Department to amend the definition of "substance-affected infant" to require both confirmed exposure in utero to alcohol or a controlled substance *and* symptoms of withdrawal resulting from the confirmed exposure in utero.

RESPONSE: The Department will not be changing the definition of substance-affected infant upon adoption. The current definition aligns with §§ 5106(b)(2)(B)(ii) and (iii) of the Child Abuse Prevention and Treatment Act (CAPTA), 42 U.S.C. §§ 5101 et seq., which requires states to have policies and procedures and plans of safe care for infants who are "... as being affected by substance abuse *or* [emphasis added] withdrawal symptoms, or a Fetal Alcohol Spectrum Disorder."

3. COMMENT: N.J.A.C. 3A:26-1.2. The commenter encourages the Department to incorporate an emphasis on the *voluntary* nature of the services in its definition of "Family Care Plan" at N.J.A.C. 3A:26-1.2.

RESPONSE: The Department will not change the definition of "Family Care Plan" upon adoption. N.J.A.C. 3A:26-1.3(b) clearly establishes the Division's responsibility to provide the "contact information for the appropriate State contracted agency that offers voluntary services" in response to notifications submitted by health care facility providers. The Family Care Plan process will be effectuated by various organizations and entities, including health care providers and community providers, and the corresponding trainings will allow emphasis to be placed on the voluntary nature of the referral services.

4. COMMENT: The commenter asks the Department to clarify the meaning of the phrase "concerns of abuse or neglect," that is used throughout the rulemaking.

RESPONSE: The Department appreciates the commenter's request for clarification of the phrase "concerns of abuse or neglect." N.J.A.C. 3A:26 uses the phrase "concerns of suspected abuse or neglect" to identify when a notification must be made using the emergency telephone service that the Division of Child Protection and Permanency (Division) maintains pursuant to N.J.S.A. 9:6-8.12. The phrase "concerns of suspected child abuse or neglect" aligns with the language used in the licensing standards that apply to the health care facilities that are subject to N.J.A.C. 3A:26. In particular, N.J.A.C. 8:43A-28.7 and 8:43G-2.13 require written policies and procedures for the reporting of "suspected child abuse or neglect" to the Division. To ensure consistency and to reduce potential ambiguity, the Department will change the rules upon adoption to add the word "suspected" at N.J.A.C. 3A:26-1.1(b)2 and 1.3(a)2 to correct its inadvertent omission from the phrase "concerns of child abuse or neglect," as originally proposed. The Department will also clarify the definition of "notification" at N.J.A.C. 3A:26-1.2, as originally proposed, to specify that concerns of suspected "child" abuse or neglect must be reported. The definition is further changed to confirm that the concerns that health care providers are required to report to the Division are concerns "of suspected child abuse or neglect."

5. COMMENT: The commenter encourages the Department to consider amending the rulemaking to require healthcare facilities to inform birthing individuals, caregivers, and family members when a deidentified notification is submitted to the Division.

RESPONSE: The requested change relates to a health care facility provider's procedures and protocols are beyond the scope of this rulemaking. The Department's rulemaking establishes a deidentified electronic notification system that will prevent unnecessary involvement with the child protection system, while maintaining consistency with the CAPTA reporting requirements imposed by Sections 106(b)(2)(B)(ii) and (iii). As the commenter notes, the adoption of the proposed deidentified notification pathway "... makes New Jersey a leader in the national landscape."

The Department is, therefore, satisfied that the adopted rules advance a "family-centered approach" and declines to make the requested change upon adoption. The Department is, however, working with the Department of Health to issue joint guidance to ensure that the notification and the Family Care Plan processes align with the goals and purposes set forth in this rulemaking.

6. COMMENT: The commenter recommends that the Department amend the rulemaking to explicitly state that toxicology screening and toxicology confirmation testing may only occur with a patient's informed consent.

RESPONSE: The protocols that health care facility providers implement for conducting toxicology screening and toxicology confirmation testing are beyond the scope of the rulemaking. The Department also notes that the adopted rules incorporate significant updates to safeguard against unnecessary child protective services involvement. In addition to the deidentified notification pathway discussed above, the updated rules require confirmation of a presumptive positive result from a toxicology screen prior to classifying an infant as a substance-affected infant. For these reasons, the Department declines to make the requested change upon adoption.

7. COMMENT: The commenter asks whether the revised rule should offer more guidance on who prepares a Family Care Plan and the types of voluntary services or supports that the plan should include?

RESPONSE: The Department appreciates the commenter's question. Guidance related to Family Care Plan development and content will be conveyed through training, guidance, and public health education materials that are provided by the Department of Health.

8. COMMENT: N.J.A.C. 3A:26-1.4(a)9. The commenter asks the Department to explain the next steps "if a healthcare provider submits a de-identified notification of a substance-affected infant and indicates that a Family Care Plan has *not* been completed?

RESPONSE: If a Family Care Plan has not been completed prior to the submission of a notification, the health care provider would just report that there is no Family Care Plan completed at the time of birth when submitting the notification. The family would still be referred to

community supports and a Family Care Plan should still be developed, either by the State contracted service provider agency or by the health care facility provider, depending on the individual circumstances of the situation.

Summary of Agency-Initiated Changes Upon Adoption:

The amendment at N.J.A.C. 3A:26-1.3(a), as originally proposed, establishes the electronic notification system through which notifications may be submitted to the Division. The Department is replacing the placeholder text, which states the web address for the electronic notification system will be provided upon adoption, with the web address where the electronic notification system can be accessed.

Federal Standards Statement

The adopted amendments, new rules, and repeal meet, but do not exceed, the application requirements set forth by the Child Abuse Prevention and Treatment Act (CAPTA; 42 U.S.C. §§ 5101 et seq.), which requires that health care providers must notify child protective services when an infant is born and identified as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder. CAPTA requirements further mandate that states have systems in place for the facilitation of these reports. The adopted amendments, new rules, and recodification ensure New Jersey's compliance with this requirement. The adopted amendments further ensure compliance with section 106(b)(2)(B)(iii) of CAPTA, which requires the development of a plan to ensure the safety and well-being of a substance-affected infant following release from the care of health care providers.

The Department has reviewed the applicable Federal statute, rules, and regulations and has concluded that the adopted amendments do not exceed Federal standards. Therefore, a Federal standards analysis is not required.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletion from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. REPORTS OF SUBSTANCE-AFFECTED INFANTS

3A:26-1.1 Purpose and scope

(a) Consistent with the Federal Child Abuse Prevention and Treatment Act (CAPTA), the rules in this chapter are designed to promote a family-focused, preventive, public health approach to support birthing individuals and infants affected by substance use.

(b) In accordance with CAPTA Sections 106(b)(2)(B)(ii) and (iii), the purpose of this chapter is to set new reporting procedures that comply with CAPTA:

1. Establish two pathways for health care facilities to provide information to the Division following the birth of a substance-affected infant:

i. Through the Department's web-based system, if there are no additional concerns of suspected child abuse or neglect present; and

ii. Through the emergency telephone service maintained by the Division, pursuant to N.J.S.A. 9:6-8.12, known as the Screening Central Registry or SCR; and

2. Allow health care facilities to notify the Division of a substance-affected infant, in accordance with CAPTA Section 106(b)(2)(B)(ii), without requiring the child protection system to become directly involved with the family when there are no concerns of ***suspected*** child abuse or neglect present.

(c) The rules in this chapter are applicable to the Division and the health care facilities that are licensed by the Department of Health and subject to the rules at N.J.A.C. 8:43A-28.7 and 8:43G-2.13.

3A:26-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Controlled substance" or "controlled dangerous substance" means a drug subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. §§ 801 et seq., the New Jersey Controlled Dangerous Substances Act, N.J.S.A. 24:21-1 et seq., or the Controlled Dangerous Substances rules, N.J.A.C. 13:45H.

. . .

"Family care plan" means a written or electronic document that is created in accordance with CAPTA section 106(b)(2)(B)(iii) for the purpose of providing referrals to appropriate services and ensuring the continued safety and well-being of a birthing parent, caregivers, and substance-affected infants following their release from the care of health care facility providers.

"Health care facility" means a:

1. General acute care or special hospital which is licensed by the Department of Health in accordance with N.J.A.C. 8:43G; and

2. Hospital, health care facility, or other health care provider that is separately licensed as a birth center by the Department of Health, pursuant to the licensing rules at N.J.A.C. 3A:43A.

"Health care facility provider" means all health professionals who provide perinatal treatment and care to newborns at a health care facility, regardless of the compensation agreement, contractual status, or privilege status that may exist between the health professional and the health care facility.

"Notification" means the submission of written or verbal confidential information by a health care facility provider in respect to a substance-affected infant, where there are no additional concerns of suspected abuse or neglect, to the Division in compliance with CAPTA Section 106(b)(2)(B)(ii), 42 U.S.C. §§ 5101 et seq., as amended by the Comprehensive Addiction and Recovery Act (CARA) of 2016, 114 P.L. 198, and any amendments thereto. A notification does not constitute a report of alleged child abuse or neglect. Where there are concerns of suspected ***child*** abuse or neglect, health care providers are required to report the concerns ***of suspected child abuse or neglect*** to the Division, pursuant to N.J.S.A. 9:6-8.10 and the Division will respond as appropriate in accordance with N.J.A.C. 3A:10.

"Report" means an account or statement describing a specific incident or set of circumstances of suspected abuse or neglect as defined at N.J.A.C. 3A:10-1.3 and required by N.J.S.A. 9:6-8.10.

"Substance-affected infant" means an infant who, in accordance with any applicable guidance issued by the Department of Health:

1. Is born with confirmed exposure in utero to alcohol or a controlled substance;

2. Displays symptoms of withdrawal resulting from the confirmed exposure in utero to alcohol or a controlled substance; or

3. Is diagnosed with or designated as being at risk of fetal alcohol spectrum disorder (FASD).

For purposes of this subchapter, a presumptive positive result from a toxicology screen, absent confirmation-level toxicology testing, shall not be considered sufficient evidence to classify an infant as a substance-affected infant. For purposes of this subchapter, substance use that results in gestational exposure is not, in and of itself, child abuse or neglect.

"Toxicology confirmation testing" refers to the utilization of advanced analytical techniques, such as Gas Chromatography-Mass Spectrometry (GC-MS) or Liquid Chromatography-Tandem Mass Spectrometry (LC-MS/MS), to detect and quantify specific substances in biological specimens. These methodologies provide precise and highly specific quantitative results, offering significantly greater sensitivity, specificity, and reliability compared to screening methods.

"Toxicology screening" refers to the use of immunoassay techniques to detect the presence or absence of a substance in a biological specimen (for example, urine, serum, or oral fluid). It is a qualitative screen that provides a "positive" or "negative" result. Though rapid, it is inherently limited by relatively low sensitivity and specificity. Additionally, various factors including, but not limited to, specimen pH, analyte concentration, and cross-reactivity with structurally similar compounds may lead to false-positive or false-negative findings. As such, toxicology screening should be regarded as a preliminary test, with confirmatory testing required when clinical or legal decisions are at stake.

3A:26-1.3 Notification procedures

(a) The Division shall receive notifications that health care facilities submit in accordance with N.J.A.C. 8:43A-28.7 and 8:43G-2.13.

1. Notifications may be submitted:

i. Through an electronic notification system, accessible at *[(web address to be provided upon the effective date of this rulemaking)]*

njdcf.prod.simpligov.com/prod/portal/ShowWorkFlow/AnonymousEmbed/91c27b39-a0e8-40c5-8571-a0c5fb8d637b or

ii. By calling the emergency telephone service that the Division maintains pursuant to N.J.S.A. 9:6-8.12, known as Screening Central Registry/SCR.

2. Health care facility providers that submit notifications will be asked to respond to safety questions to determine if concerns of ***suspected*** child abuse or neglect are present, and if so, to ensure that the Division responds, if necessary, in accordance with N.J.S.A. 9:6-8.10 and N.J.A.C. 3A:10.

i. If responses to safety questions are submitted through the electronic notification system and safety concerns are identified, an electronic message will direct the health care facility provider to call the Division's emergency number, known as Screening Central Registry/SCR, to complete the notification.

ii. For all notifications that include safety concerns, the SCR worker will both complete the notification and determine whether the safety concern(s) require further investigation for child abuse or neglect. If further investigation is necessary, the Division will initiate a response in accordance with N.J.S.A. 9:6-8.10 and N.J.A.C. 3A:10.

(b) For each notification the Division receives, the Division shall provide the health care facility provider that submits the notification with contact information for the appropriate State-contracted agency that offers voluntary services for the birthing individual, caregivers, family members, and the substance-affected infant.

(c) Notifications made pursuant to this chapter shall be considered investigative records and will be treated as confidential pursuant to N.J.S.A. 9:6-8.10a.

3A:26-1.4 Content of notifications

(a) Notifications made pursuant to N.J.A.C. 3A:26-1.3(b) shall be completed in a form and manner as dictated by the Department, and shall include the following information:

1. Health care facility;

2. Name of health care facility provider submitting the notification and their contact information;

3. Birthing individual's race, ethnicity, and zip code;

4. Infant's race, ethnicity, and zip code;

5. Controlled substance(s) that the infant was exposed to;

6. Method used to confirm substance exposure;

7. Whether the infant displays symptoms of withdrawal;

8. Whether the infant has a diagnosis or is designated to be at risk of Fetal Alcohol Spectrum Disorder (FASD);

9. Whether a family care plan was completed.

i. If a family care plan was completed, who completed it;

10. Whether the family has a need for additional services, including services for the substance-affected infant, birthing individual, and/or caregivers; and

11. Whether the family was referred for those services.

(a)

CHILD PROTECTION AND PERMANENCY

Manual of Requirements for Resource Family Parents and Manual of Requirements for Kinship Resource Family Providers

Adopted Amendments: N.J.A.C. 3A:51-1.2, 1.3, 2.1, and 2.2

Adopted New Rules: N.J.A.C. 3A:51A

Proposed: August 18, 2025, at 57 N.J.R. 1750(a).

Adopted: December 19, 2025, by Christine Norbut Beyer, M.S.W., Commissioner, Department of Children and Families.

Filed: December 19, 2025, as R.2026 d.025, **without change**.

Authority: N.J.S.A. 9:3A-7f, 30:4C-4.h, 30:4C-26a, and 30:4C-27.15.

Effective Date: January 20, 2026.

Expiration Dates: July 5, 2026, N.J.A.C. 3A:51;
January 20, 2033, N.J.A.C. 3A:51A.

Summary of Public Comment and Agency Response:
No comments were received.

Federal Standards Statement

The adopted amendments and new rules meet, but do not exceed, the applicable requirements set forth by Title IV-E of the Social Security Act and the Federal regulations issued by the Administration for Children and Families (ACF). On September 28, 2023, the ACF issued a final rule revising 45 CFR 1355.20 allowing title IV-E agencies to adopt one set of licensing standards for all relative or kinship resource family homes that is different from the licensing standards used for non-relative resource family homes. N.J.A.C. 3A:51A establishes licensing requirements for kinship resource family providers that are reasonably in accord with recommended standards of national organizations for resource or foster family homes related to admission policies, safety, sanitation, protection of civil rights, and use of the reasonable and prudent parenting standard pursuant to the requirements of section 471(a)(10)(A) of the Social Security Act.

Full text of the adoption follows:

CHAPTER 51
MANUAL OF REQUIREMENTS FOR RESOURCE FAMILY PARENTS

SUBCHAPTER 1. GENERAL PROVISIONS

3A:51-1.2 Scope

(a) (No change.)

(b) (No change in text.)

3A:51-1.3 Definitions

(a) (No change.)

(b) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

. . .

SUBCHAPTER 2. LICENSING PROCEDURES

3A:51-2.1 Application for a license

(a)-(d) (No change.)

3A:51-2.2 Issuance of a license

(a) (No change.)

(b) The Office of Licensing may grant a waiver of a Level II requirement for a resource family parent.

1.-5. (No change.)

(c)-(l) (No change.)

CHAPTER 51A
MANUAL OF REQUIREMENTS FOR KINSHIP RESOURCE FAMILY PROVIDERS

SUBCHAPTER 1. GENERAL PROVISIONS

3A:51A-1.1 Authorization to be a kinship resource family provider

(a) A person shall not provide kinship resource family care to a child in placement unless the person is licensed by the Office of Licensing.

(b) In order to be licensed, a person shall demonstrate to the satisfaction of the Department of Children and Families that he or she complies with all applicable provisions of this chapter. The provisions of this chapter constitute minimum baseline requirements below which no home that is subject to the authority at N.J.S.A. 30:4C-27.3 et seq., and 30:4C-4 is legally permitted to operate.

3A:51A-1.2 Scope

(a) A kinship resource family provider who is subject to the provisions of this chapter shall include any person with whom a child in the care, custody, or guardianship of the Department is placed for kinship resource family provider care, and any person with whom a child is placed by the