

## Talking Points: Amendments to Chemical Endangerment Statute

The Alabama Chapter of the American Academy of Pediatrics has been working with the March of Dimes to strongly support amendments to Alabama's chemical endangerment statute, which criminalizes mothers in whom substance use has been detected during pregnancy. This year, SB 141 has been introduced to amend the current law as follows:

### Key points:

- Original enhancements to the chemical endangerment law passed in 2016 by Senator Clyde Chambliss, providing protection from prosecution if a woman tested positive for a controlled substance if she had a valid prescription (i.e. Medically Assisted Therapy).
- SB 141 basically accomplishes the following:
  - It brings the charging provisions of the chemical endangerment statute for contact with marijuana or drug paraphernalia, when there has been no harm to a child, in line with the charges for all other people – a Class A misdemeanor.
  - It leaves in place the charge of a Class C felony for any other prohibited substance when there is no harm to the child.
  - It leaves in place the charge of a Class B felony when there is serious physical injury to the child and a Class A felony if there is a death of the child.
  - SB 141 also requires that, before DHR or law enforcement initiates an assessment or investigation of chemical endangerment, a confirmatory positive drug test must be obtained if the woman or child tests positive for a controlled substance.
- These provisions are intended to provide the accused with the same basic protections as all other people.
- There are several common substances that could possibly cause a false drug test:
  - Poppy seeds – Have you ever had a poppy seed muffin or poppy seed chicken?
  - Robitussin
  - Benadryl NSAIDS such as Motrin, Advil, Aleve, Daypro
  - Levaquin
  - Certain eye drops that are used when testing eye pressure
- Basic fairness requires that women be treated on an equal footing with all others when being charged with a crime, and when a drug test indicates a positive result, there must be a confirming second test – usually more detailed than the simple urine drug test that – before a criminal investigation is initiated. With the prevalence of false positive results, this will prevent needless incarceration and separation of mother and child. This legislation will lead to far better health outcomes for mothers and babies.
- Please vote “yes” to SB141.