

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0933.01 Jane Ritter x4342

SENATE BILL 14-178

SENATE SPONSORSHIP

Kerr and Newell,

HOUSE SPONSORSHIP

Young,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE DEFINITION OF A DRUG-ENDANGERED CHILD FOR**
102 **PURPOSES OF CASES OF CHILD ABUSE OR NEGLECT IN THE**
103 **CRIMINAL CODE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill establishes a definition, as formulated by the state substance abuse trend and response task force, for a "drug-endangered child" for purposes of cases of child abuse or neglect in the criminal code. The bill creates the crime of child abuse for a person who is responsible

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

for creating a situation or unreasonably permitting a child to be placed in a situation in which a child is drug-endangered and establishes penalties.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-6-401, **amend** (1)
3 (c), (7) (e) (IV), and (7) (e) (V); and **add** (7) (d.3), (7) (d.4), (7) (e)
4 (VI), (10), and (11) as follows:

5 **18-6-401. Child abuse - review - repeal.** (1) (c) A PERSON
6 COMMITS CHILD ABUSE IF HE OR SHE IS RESPONSIBLE FOR CREATING A
7 SITUATION IN WHICH A CHILD IS DRUG-ENDANGERED. AS DESCRIBED IN
8 THIS PARAGRAPH (c), A CHILD IS DRUG-ENDANGERED IF ANY OF THE
9 FOLLOWING APPLY:

10 (I) ~~A person commits child abuse if,~~ In the presence of a child, or
11 on the premises where a child is found, or where a child resides, or in a
12 vehicle containing a child, the person knowingly engages in the
13 manufacture or attempted manufacture of a controlled substance, as
14 defined by section 18-18-102 (5), or knowingly possesses ephedrine,
15 pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts
16 of isomers, with the intent to use the product as an immediate precursor
17 in the manufacture of a controlled substance. It shall be no defense to the
18 crime of child abuse, as described in this subparagraph (I), that the
19 defendant did not know a child was present, a child could be found, a
20 child resided on the premises, or that a vehicle contained a child.

21 (II) A parent or lawful guardian of a child or a person having the
22 care or custody of a child ~~who~~ knowingly allows the child to be present
23 at or reside at a premises or to be in a vehicle where the parent, guardian,
24 or person having care or custody of the child knows or reasonably should
25 know another person is engaged in the manufacture or attempted

1 manufacture of methamphetamine. ~~commits child abuse.~~

2 (III) A parent or lawful guardian of a child or a person having the
3 care or custody of a child ~~who~~ knowingly allows the child to be present
4 at or reside at a premises or to be in a vehicle where the parent, guardian,
5 or person having care or custody of the child knows or reasonably should
6 know another person possesses ephedrine, pseudoephedrine, or
7 phenylpropanolamine, or their salts, isomers, or salts of isomers, with the
8 intent to use the product as an immediate precursor in the manufacture of
9 methamphetamine. ~~commits child abuse.~~

10 (IV) (A) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH (c),
11 IN THE PRESENCE OF A CHILD, OR ON THE PREMISES WHERE A CHILD IS
12 FOUND OR RESIDES, OR IN A VEHICLE CONTAINING A CHILD, A PERSON
13 KNOWINGLY AND UNLAWFULLY DISTRIBUTES OR OBTAINS, OR ATTEMPTS
14 TO DISTRIBUTE OR OBTAIN, A CONTROLLED SUBSTANCE, AS DEFINED IN
15 SECTION 18-18-102 (5), ONLY WHEN ANY SUCH ACTIVITY POSES A THREAT
16 OF INJURY TO THE CHILD'S LIFE OR HEALTH. FOR THE PURPOSES OF THIS
17 SUB-SUBPARAGRAPH (A), IT IS NOT A DEFENSE TO THE CRIME OF CHILD
18 ABUSE THAT THE DEFENDANT DID NOT KNOW A CHILD WAS PRESENT, A
19 CHILD COULD BE FOUND, A CHILD RESIDED ON THE PREMISES, OR THAT A
20 VEHICLE CONTAINED A CHILD.

21 (B) A PARENT OR LAWFUL GUARDIAN OF A CHILD OR A PERSON
22 HAVING THE CARE OR CUSTODY OF A CHILD KNOWINGLY OR RECKLESSLY
23 ALLOWS THE CHILD TO BE PRESENT IN ANY LOCATION WHERE A PERSON
24 UNLAWFULLY DISTRIBUTES OR OBTAINS, OR ATTEMPTS TO DISTRIBUTE OR
25 OBTAIN, A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-102
26 (5), ONLY WHEN ANY SUCH ACTIVITY POSES A THREAT OF INJURY TO THE
27 CHILD'S LIFE OR HEALTH.

1 (V) IN THE PRESENCE OF A CHILD, OR ON THE PREMISES WHERE A
2 CHILD IS FOUND OR RESIDES, OR IN A VEHICLE CONTAINING A CHILD, A
3 PERSON KNOWINGLY CULTIVATES, PRODUCES, POSSESSES, USES, OR
4 ATTEMPTS TO CULTIVATE, PRODUCE, POSSESS, OR USE A CONTROLLED
5 SUBSTANCE, AS DEFINED IN SECTION 18-18-102 (5), IS, OR IS ATTEMPTED
6 TO BE, POSSESSED OR USED, ONLY WHEN ANY SUCH ACTIVITY POSES A
7 THREAT OF INJURY TO THE CHILD'S LIFE OR HEALTH.

8 (7) (d.3) WHEN A PERSON COMMITS CHILD ABUSE AS DESCRIBED IN
9 SUBPARAGRAPH (IV) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS
10 SECTION, IT IS A CLASS 1 MISDEMEANOR; EXCEPT THAT, IF IT IS COMMITTED
11 UNDER THE CIRCUMSTANCES DESCRIBED IN PARAGRAPH (e) OF THIS
12 SUBSECTION (7), IT IS A CLASS 5 FELONY.

13 (d.4) WHEN A PERSON COMMITS CHILD ABUSE AS DESCRIBED IN
14 SUBPARAGRAPH (V) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS
15 SECTION, IT IS A CLASS 2 MISDEMEANOR; EXCEPT THAT, IF IT IS COMMITTED
16 UNDER THE CIRCUMSTANCES DESCRIBED IN PARAGRAPH (e) OF THIS
17 SUBSECTION (7), IT IS A CLASS 5 FELONY.

18 (e) A person who has previously been convicted of a violation of
19 this section or of an offense in any other state, the United States, or any
20 territory subject to the jurisdiction of the United States that would
21 constitute child abuse if committed in this state and who commits child
22 abuse as provided in subparagraph (V) or (VI) of paragraph (a) of this
23 subsection (7) or as provided in subparagraph (I) or (II) of paragraph (b)
24 of this subsection (7) commits a class 5 felony if the trier of fact finds that
25 the new offense involved any of the following acts:

26 (IV) The defendant committed a continued pattern of acts of
27 domestic violence, as that term is defined in section 18-6-800.3, in the

1 presence of the child; or

2 (V) The defendant participated in a continued pattern of extreme
3 deprivation of hygienic or sanitary conditions in the child's daily living
4 environment; OR

5 (VI) THE DEFENDANT COMMITTED A CONTINUED PATTERN OF
6 CREATING A SITUATION IN WHICH A CHILD IS DRUG-ENDANGERED, AS
7 DEFINED IN PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION.

8 (10) (a) ON OR BEFORE DECEMBER 1, 2016, THE JUDICIAL
9 DEPARTMENT SHALL REVIEW AND PREPARE A REPORT ON THE EFFECT AND
10 OUTCOMES OF SENATE BILL 14-178, ENACTED IN 2014. THE REVIEW MUST
11 INCLUDE THE NUMBER OF ADDITIONAL CRIMINAL CHARGES BROUGHT FROM
12 AUGUST 1, 2014, THROUGH AUGUST 1, 2016, AS COMPARED WITH THE
13 PRIOR TWO-YEAR PERIOD, BASED ON THE DEFINITION OF A
14 DRUG-ENDANGERED CHILD IN PARAGRAPH (c) OF SUBSECTION (1) OF THIS
15 SECTION, AND ANY OTHER INFORMATION THE JUDICIAL DEPARTMENT
16 DEEMS NECESSARY TO ASSESS THE IMPACT OF SENATE BILL 14-178,
17 ENACTED IN 2014, ON CHILDREN AND FAMILIES. THE JUDICIAL
18 DEPARTMENT SHALL PROVIDE A COPY OF THE REPORT TO THE JUDICIARY
19 COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY
20 SUCCESSOR COMMITTEES, ON OR BEFORE DECEMBER 1, 2016.

21 (b) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JULY 1, 2017.

22 (11) NOTHING IN THIS PART 4 SHALL PROHIBIT THE USE,
23 POSSESSION, CULTIVATION, DISTRIBUTION, OR MANUFACTURE OF A
24 CONTROLLED SUBSTANCE THAT IS PERMITTED BY COLORADO LAW AND
25 THAT IS USED, POSSESSED, CULTIVATED, DISTRIBUTED, OR MANUFACTURED
26 IN ACCORDANCE WITH COLORADO LAW, IN A SITUATION THAT DOES NOT
27 POSE A THREAT OF INJURY TO A CHILD'S LIFE OR HEALTH.

1 **SECTION 2. Potential appropriation.** Pursuant to section
2 2-2-703, Colorado Revised Statutes, any bill that results in a net increase
3 in periods of imprisonment in the state correctional facilities must include
4 an appropriation of moneys that is sufficient to cover any increased
5 capital construction and operational costs for the first five fiscal years in
6 which there is a fiscal impact. Because this act may increase periods of
7 imprisonment, this act may require a five-year appropriation.

8 **SECTION 3. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.