

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 13-0935.01 Jane Ritter x4342

SENATE BILL 13-278

SENATE SPONSORSHIP

Kerr and Newell,

HOUSE SPONSORSHIP

Young,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING CREATING A DEFINITION OF A "DRUG-ENDANGERED**
102 **CHILD" WITH RESPECT TO CHILD ABUSE OR NEGLECT.**

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 creates a definition of a "drug-endangered child" in the context of child abuse or neglect.

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

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.

1 **SECTION 1. Legislative declaration.** (1) The general assembly
2 hereby finds and declares that:

3 (a) Colorado is currently second in the nation for prescription drug
4 abuse;

5 (b) When controlled substances, whether legal or illegal, are used,
6 produced, or distributed in the presence of children, a greater likelihood
7 exists for harm to the children from caretaker incapacitation, access to
8 dangerous drug-production components, lack of supervision, unhealthy
9 indoor air quality, exposure to dangerous non-drug criminal behaviors,
10 and other circumstances that pose a danger to children;

11 (c) Law enforcement agencies, human services, family courts, and
12 the criminal justice system currently do not have a common definition of
13 a "drug-endangered child";

14 (d) Law enforcement agencies, human services, and statutorily
15 mandated reporters of suspected child maltreatment need common tools
16 and training to identify a child at risk of abuse and neglect as a result of
17 the use, production, and distribution of drugs in a child's environment;

18 (e) Effective training needs to stem from a common definition of
19 "drug-endangered child";

20 (f) While criminal penalties may be appropriate in some cases,
21 such as the possession, production, and distribution of certain drugs as
22 well as other offenses defined in part 4 of article 18 of title 18, Colorado
23 Revised Statutes, the welfare and safety of children is paramount and
24 requires that human services and law enforcement agencies work from a
25 common definition of "drug-endangered child" so they can best meet the
26 needs of children whose health, welfare, and safety may be at risk; and

27 (g) Nothing in this bill shall be construed to provide an

1 affirmative basis for investigation solely on the use, possession,
2 cultivation, or manufacture of marijuana, marijuana concentrate, or
3 marijuana products pursuant to the provisions of section 12 of article
4 XVIII or section 16 of article XVIII of the Colorado constitution or an
5 ordinance of a county, city or county, or municipality.

6 (2) Therefore, the general assembly declares and adopts a
7 common definition of a "drug-endangered child".

8 **SECTION 2.** In Colorado Revised Statutes, 19-1-103, **amend** (1)
9 (a) (VI); **repeal** (1) (a) (VII); and **add** (44.7) as follows:

10 **19-1-103. Definitions.** As used in this title or in the specified
11 portion of this title, unless the context otherwise requires:

12 (1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of
13 article 3 of this title, means an act or omission in one of the following
14 categories that threatens the health or welfare of a child:

15 (VI) ~~Any case in which, in the presence of a child, or on the~~
16 ~~premises where a child is found, or where a child resides, a controlled~~
17 ~~substance, as defined in section 18-18-102 (5), C.R.S., is manufactured~~
18 ~~or attempted to be manufactured;~~ INVOLVING A DRUG-ENDANGERED
19 CHILD, AS DEFINED IN SUBSECTION (44.7) OF THIS SECTION.

20 (VII) ~~Any case in which a child tests positive at birth for either a~~
21 ~~schedule I controlled substance, as defined in section 18-18-203, C.R.S.,~~
22 ~~or a schedule II controlled substance, as defined in section 18-18-204,~~
23 ~~C.R.S., unless the child tests positive for a schedule II controlled~~
24 ~~substance as a result of the mother's lawful intake of such substance as~~
25 ~~prescribed.~~

26 (44.7) (a) "DRUG-ENDANGERED CHILD" MEANS A CHILD:
27 (I) WHOSE HEALTH OR WELFARE IS ENDANGERED OR THREATENED

1 AS A RESULT OF THE USE AND ABUSE, POSSESSION, DISTRIBUTION,
2 PRODUCTION, OR MANUFACTURE, OR THE ATTEMPTED USE AND ABUSE,
3 POSSESSION, DISTRIBUTION, PRODUCTION, OR MANUFACTURE, OF A
4 CONTROLLED SUBSTANCE, AS THAT TERM IS DEFINED IN THE FEDERAL
5 "CONTROLLED SUBSTANCES ACT", 21 U.S.C. SEC. 801 ET SEQ., IN THE
6 PRESENCE OF A CHILD, ON THE PREMISES WHERE A CHILD IS FOUND, OR
7 WHERE A CHILD RESIDES. THE UNRESTRICTED ACCESS TO THE CONTROLLED
8 SUBSTANCE BY A CHILD MAY ESTABLISH ENDANGERMENT AND
9 ENDANGERMENT MAY ALSO BE ESTABLISHED BY OTHER CIRCUMSTANCES
10 WHEN A CHILD'S HEALTH OR WELFARE IS THREATENED BY THE DRUG
11 ACTIVITY. FOR PURPOSES OF THIS PARAGRAPH (a), "USE AND ABUSE"
12 MEANS THE CONTINUED USE OR ABUSE, AS THAT TERM IS USED IN SECTION
13 27-82-102 (8), BY A PERSON OF A CONTROLLED SUBSTANCE OR OF
14 MARIJUANA IN VIOLATION OF THE PROVISIONS OF SECTION 12 OF ARTICLE
15 XVIII OR SECTION 16 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION
16 IN A MANNER THAT WOULD THREATEN THE HEALTH OR WELFARE OF A
17 CHILD. IF A COURT ORDER PROHIBITS THE USE OF MARIJUANA OR OTHER
18 CONTROLLED SUBSTANCE, THE PROVISIONS OF THIS SUBSECTION (44.7)
19 SHALL APPLY. THIS SUBSECTION (44.7) ONLY APPLIES IN THOSE
20 SITUATIONS WHERE THE HEALTH OR WELFARE OF A CHILD IS ENDANGERED
21 OR THREATENED;

22 (II) ANY CASE IN WHICH A CHILD TESTS POSITIVE AT BIRTH FOR
23 EITHER A SCHEDULE I CONTROLLED SUBSTANCE, AS DEFINED IN SECTION
24 18-18-203, C.R.S., OR A SCHEDULE II CONTROLLED SUBSTANCE, AS
25 DEFINED IN SECTION 18-18-204, C.R.S., UNLESS THE CHILD TESTS POSITIVE
26 FOR A SCHEDULE II CONTROLLED SUBSTANCE AS A RESULT OF THE
27 MOTHER'S LAWFUL INTAKE OF SUCH SUBSTANCE AS PRESCRIBED.

1 (b) FOR PURPOSES OF THIS SUBSECTION (44.7), "CONTROLLED
2 SUBSTANCE" DOES NOT INCLUDE INDUSTRIAL HEMP, AS DEFINED IN
3 SECTION 35-61-101 (5), C.R.S.

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