

**Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO  
CORRECTED INTRODUCED**

LLS NO. 14-0933.01 Jane Ritter x4342

**SENATE BILL 14-178**

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**SENATE SPONSORSHIP**

**Kerr and Newell,**

**HOUSE SPONSORSHIP**

**Young,**

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**Senate Committees**  
Judiciary

**House Committees**

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**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.**

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**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.

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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), and (7) (e)  
4 (VI) as follows:

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

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

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

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

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

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

27 (V) IN THE PRESENCE OF A CHILD, OR ON THE PREMISES WHERE A

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

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

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

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

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

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

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

7 **SECTION 2. Potential appropriation.** Pursuant to section  
8 2-2-703, Colorado Revised Statutes, any bill that results in a net increase  
9 in periods of imprisonment in the state correctional facilities must include  
10 an appropriation of moneys that is sufficient to cover any increased  
11 capital construction and operational costs for the first five fiscal years in  
12 which there is a fiscal impact. Because this act may increase periods of  
13 imprisonment, this act may require a five-year appropriation.

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