

# Child Endangerment/Failure to Protect Laws

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## Summary of Content

Child endangerment and failure to protect laws create criminal offenses for subjecting minor children to inappropriate or dangerous situations. For example in California a person “having the care or custody of any child [who]... permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment.”<sup>1</sup> Other state statutes specify types of dangerous situations that must be avoided. For example the Alaska criminal code creates a duty not to leave the child with a non-parent registered sex offender, or continue to leave the child with someone who the guardian knows has previously physically mistreated or had sexual contact with the child.<sup>2</sup>

This document is a comprehensive compilation of child endangerment statutes from U.S. state, territorial, and the federal jurisdictions. The author purposefully excluded criminal neglect statutes that only codify a parent’s duty to provide food, shelter, clothing, educational needs, and medical need to a child as well as hyperthermia statutes that penalize leaving children in cars unattended. Those statutes are included in separate compilations. This compilation is up-to-date as of the month it was created. However, please note that we recommend checking both case law and current legislation for any possible modifications to the statutes listed below.

For further assistance, consult the National District Attorneys Association’s National Center for Prosecution of Child Abuse at 703.549.9222, or via the free online prosecution assistance service [http://www.ndaa.org/ta\\_form.php](http://www.ndaa.org/ta_form.php).

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<sup>1</sup> Cal. Penal Code § 273a (2014). Endangering child or causing or permitting child to suffer physical pain, mental suffering, or injury; Conditions of probation

<sup>2</sup> ALASKA STAT. § 11.51.100 (2014). Endangering the welfare of a child in the first degree

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## **ALABAMA**

### **ALA. CODE § 13A-13-6 (2014). ENDANGERING WELFARE OF CHILD**

(a) A man or woman commits the crime of endangering the welfare of a child when:

(1) He or she knowingly directs or authorizes a child less than 16 years of age to engage in an occupation involving a substantial risk of danger to his life or health; or

(2) He or she, as a parent, guardian or other person legally charged with the care or custody of a child less than 18 years of age, fails to exercise reasonable diligence in the control of such child to prevent him or her from becoming a "dependent child" or a "delinquent child," as defined in Section 12-15-1.

(b) A person does not commit an offense under Section 13A-13-4 or this section for the sole reason he provides a child under the age of 19 years or a dependent spouse with remedial treatment by spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof in lieu of medical treatment.

(c) Endangering the welfare of a child is a Class A misdemeanor.

CREDIT(S)

(Acts 1977, No. 607, p. 812, § 7035.)

Current through Act 2014-457 of the 2014 Regular Session.

### **Ala. Code § 26-15-3.2 (2014). Chemical endangerment of child.**

(a) A responsible person commits the crime of chemical endangerment of exposing a child to an environment in which he or she does any of the following:

(1) Knowingly, recklessly, or intentionally causes or permits a child to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug paraphernalia as defined in Section 13A-12-260. A violation under this subdivision is a Class C felony.

(2) Violates subdivision (1) and a child suffers serious physical injury by exposure to, ingestion of, inhalation of, or contact with a controlled substance, chemical substance, or drug paraphernalia. A violation under this subdivision is a Class B felony.

(3) Violates subdivision (1) and the exposure, ingestion, inhalation, or contact results

in the death of the child. A violation under this subdivision is a Class A felony.

(b) The court shall impose punishment pursuant to this section rather than imposing punishment authorized under any other provision of law, unless another provision of law provides for a greater penalty or a longer term of imprisonment.

(c) It is an affirmative defense to a violation of this section that the controlled substance was provided by lawful prescription for the child, and that it was administered to the child in accordance with the prescription instructions provided with the controlled substance.

CREDIT(S)

(Act 2006-204, p. 302, § 2.)

Current through Act 2014-457 of the 2014 Regular Session.

## **ALASKA**

### **Alaska Stat. § 11.51.100 (2014). ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE**

(a) A person commits the crime of endangering the welfare of a child in the first degree if, being a parent, guardian, or other person legally charged with the care of a child under 16 years of age, the person

(1) intentionally deserts the child in a place under circumstances creating a substantial risk of physical injury to the child;

(2) leaves the child with another person who is not a parent, guardian, or lawful custodian of the child knowing that the person is

(A) registered or required to register as a sex offender or child kidnapper under AS 12.63 or a law or ordinance in another jurisdiction with similar requirements;

(B) charged by complaint, information, or indictment with a violation of AS 11.41.410--11.41.455 or a law or ordinance in another jurisdiction with similar elements; or

(C) charged by complaint, information, or indictment with an attempt, solicitation, or conspiracy to commit a crime described in (B) of this paragraph;

(3) leaves the child with another person knowing that the person has previously physically mistreated or had sexual contact with any child, and the other person causes physical injury to or engages in sexual contact with the child; or

(4) recklessly fails to provide an adequate quantity of food or liquids to a child, causing protracted impairment of the child's health.

(b) A person commits the crime of endangering the welfare of a minor in the first degree if the person transports a child in a motor vehicle, aircraft, or watercraft while in violation of AS

28.35.030.

(c) In this section, "physically mistreated" means

(1) having committed an act punishable under AS 11.41.100--11.41.250; or  
(2) having applied force to a child that, under the circumstances in which it was applied, or considering the age or physical condition of the child, constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation because of the substantial and unjustifiable risk of

(A) death;

(B) serious or protracted disfigurement;

(C) protracted impairment of health;

(D) loss or impairment of the function of a body member or organ;

(E) substantial skin bruising, burning, or other skin injury;

(F) internal bleeding or subdural hematoma;

(G) bone fracture; or

(H) prolonged or extreme pain, swelling, or injury to soft tissue.

(d) Endangering the welfare of a child in the first degree under (a)(3) of this section is a

(1) class B felony if the child dies;

(2) class C felony if the child suffers sexual contact, sexual penetration, or serious physical injury;

or

(3) class A misdemeanor if the child suffers physical injury.

(e) Endangering the welfare of a child under (b) of this subsection is a class A misdemeanor.

(f) Endangering the welfare of a child in the first degree under (a)(1), (2), or (4) of this section is a class C felony.

CREDIT(S)

SLA 1978, ch. 166, § 5; SLA 1998, ch. 99, § 5; SLA 2004, ch. 127, §§ 1--3. Amended by SLA 2011, ch. 20, § 10, eff. July 1, 2011; SLA 2012, ch. 70, §§ 3, 4, eff. July 1, 2012; SLA 2013, ch. 9, § 5, eff. May 10, 2013.

Current through legislation effective April 24, 2014, passed during the 2014 2nd Reg. Sess. of the 28th Legislature



**Alaska Stat. § 11.51.110 (2014). ENDANGERING THE WELFARE OF A CHILD IN THE SECOND DEGREE**

(a) A person commits the offense of endangering the welfare of a child in the second degree if the person, while caring for a child under 10 years of age,

(1) causes or allows the child to enter or remain in a dwelling or vehicle in which a controlled substance is stored in violation of AS 11.71; or

(2) is impaired by an intoxicant, whether or not prescribed for the person under AS 17.30, and there is no third person who is at least 12 years of age and not impaired by an intoxicant present to care for the child.

(b) In this section,

(1) "impaired" means that a person is unconscious or a person is physically or mentally affected so that the person does not have the ability to care for the basic safety or personal needs of a child with the caution characteristic of a sober person of ordinary prudence;

(2) "intoxicant" has the meaning given in AS 47.10.990.

(c) Endangering the welfare of a child in the second degree is a violation.

CREDIT(S)

SLA 1998, ch. 99, § 6. Amended by SLA 2008, ch. 40, § 14, eff. May 23, 2008.

Current through legislation effective April 24, 2014, passed during the 2014 2nd Reg. Sess. of the 28th Legislature

## **ARIZONA**

**Ariz. Rev. Stat. § 13-3619 (2014). PERMITTING LIFE, HEALTH OR MORALS OF MINOR TO BE IMPERILED BY NEGLIGENCE, ABUSE OR IMMORAL ASSOCIATIONS; CLASSIFICATION**

A person having custody of a minor under sixteen years of age who knowingly causes or permits the life of such minor to be endangered, its health to be injured or its moral welfare to be imperiled, by neglect, abuse or immoral associations, is guilty of a class 1 misdemeanor.

CREDIT(S)

Formerly § 13-842. Amended by Laws 1964, Ch. 76, § 1. Renumbered as § 13-3619 by Laws 1977, Ch. 142, § 99, eff. Oct. 1, 1978. Amended by Laws 1978, Ch. 201, § 234, eff. Oct. 1, 1978. Current through the Second Regular and Second Special Sessions of the Fifty-first Legislature

**Ariz. Rev. Stat. § 13-3619 (2014). CHILD OR VULNERABLE ADULT ABUSE; EMOTIONAL ABUSE; CLASSIFICATION; EXCEPTIONS; DEFINITIONS**

A. Under circumstances likely to produce death or serious physical injury, any person who causes a child or vulnerable adult to suffer physical injury or, having the care or custody of a child or vulnerable adult, who causes or permits the person or health of the child or vulnerable adult to be injured or who causes or permits a child or vulnerable adult to be placed in a situation where the person or health of the child or vulnerable adult is endangered is guilty of an offense as follows:

1. If done intentionally or knowingly, the offense is a class 2 felony and if the victim is under fifteen years of age it is punishable pursuant to section 13-705.

2. If done recklessly, the offense is a class 3 felony.

3. If done with criminal negligence, the offense is a class 4 felony.

B. Under circumstances other than those likely to produce death or serious physical injury to a child or vulnerable adult, any person who causes a child or vulnerable adult to suffer physical injury or abuse or, having the care or custody of a child or vulnerable adult, who causes or permits the person or health of the child or vulnerable adult to be injured or who causes or permits a child or vulnerable adult to be placed in a situation where the person or health of the child or vulnerable adult is endangered is guilty of an offense as follows:

1. If done intentionally or knowingly, the offense is a class 4 felony.

2. If done recklessly, the offense is a class 5 felony.

3. If done with criminal negligence, the offense is a class 6 felony.

C. For the purposes of subsections A and B of this section, the terms endangered and abuse include but are not limited to circumstances in which a child or vulnerable adult is permitted to enter or remain in any structure or vehicle in which volatile, toxic or flammable chemicals are found or equipment is possessed by any person for the purpose of manufacturing a dangerous drug in violation of section 13-3407, subsection A, paragraph 3 or 4. Notwithstanding any other provision of this section, a violation committed under the circumstances described in this subsection does not require that a person have care or custody of the child or vulnerable adult.

D. A person who intentionally or knowingly engages in emotional abuse of a vulnerable adult who is a patient or resident in any setting in which health care, health-related services or assistance with one or more of the activities of daily living is provided or, having the care or custody of a vulnerable adult, who intentionally or knowingly subjects or permits the vulnerable adult to be subjected to emotional abuse is guilty of a class 6 felony.

E. This section does not apply to:

1. A health care provider as defined in section 36-3201 who permits a patient to die or the patient's condition to deteriorate by not providing health care if that patient refuses that care directly or indirectly through a health care directive as defined in section 36-3201, through a surrogate pursuant to section 36-3231 or through a court appointed guardian as provided for in title 14, chapter 5, article 3.

2. A vulnerable adult who is being furnished spiritual treatment through prayer alone and who would not otherwise be considered to be abused, neglected or endangered if medical treatment were being furnished.

F. For the purposes of this section:

1. "Abuse", when used in reference to a child, means abuse as defined in section 8-201, except for those acts in the definition that are declared unlawful by another statute of this title and, when used in reference to a vulnerable adult, means:

(a) Intentional infliction of physical harm.

(b) Injury caused by criminally negligent acts or omissions.

(c) Unlawful imprisonment, as described in section 13-1303.

(d) Sexual abuse or sexual assault.

2. "Child" means an individual who is under eighteen years of age.

3. "Emotional abuse" means a pattern of ridiculing or demeaning a vulnerable adult, making derogatory remarks to a vulnerable adult, verbally harassing a vulnerable adult or threatening to inflict physical or emotional harm on a vulnerable adult.

4. "Physical injury" means the impairment of physical condition and includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare.

5. "Serious physical injury" means physical injury that creates a reasonable risk of death or that causes serious or permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

6. "Vulnerable adult" means an individual who is eighteen years of age or older and who is unable to protect himself from abuse, neglect or exploitation by others because of a mental or physical impairment.

CREDIT(S)

Formerly § 13-842. Amended by Laws 1964, Ch. 76, § 1. Renumbered as § 13-3619 by Laws 1977, Ch. 142, § 99, eff. Oct. 1, 1978. Amended by Laws 1978, Ch. 201, § 234, eff. Oct. 1, 1978. Current through the Second Regular and Second Special Sessions of the Fifty-first Legislature

# ARKANSAS

## **Ark. Code Ann. § 5-27-205 (2014). ENDANGERING THE WELFARE OF A MINOR IN THE FIRST DEGREE**

(a) A person commits the offense of endangering the welfare of a minor in the first degree if, being a parent, guardian, person legally charged with care or custody of a minor, or a person charged with supervision of a minor, he or she purposely:

(1) Engages in conduct creating a substantial risk of death or serious physical injury to a minor;  
or

(2) Deserts a minor less than ten (10) years old under circumstances creating a substantial risk of death or serious physical injury.

(b) Endangering the welfare of a minor in the first degree is a Class D felony.

(c) (1) It is an affirmative defense to a prosecution under this section that a parent voluntarily delivered a child to and left the child with, or voluntarily arranged for another person to deliver a child to and leave the child with, a medical provider or law enforcement agency as provided in § 9-34-201 et seq.

(2) (A) Nothing in subdivision (c)(1) of this section shall be construed to create a defense to any prosecution arising from any conduct other than the act of delivering a child as described in subdivision (c)(1) of this section.

(B) Subdivision (c)(1) of this section specifically does not constitute a defense to any prosecution arising from an act of abuse or neglect committed prior to the delivery of a child to a medical provider or law enforcement agency as provided in § 9-34-201 et seq.

### CREDIT(S)

Acts of 1975, Act 280, § 2407; Acts of 2001, Act 236, § 2, eff. Aug. 13, 2001; Acts of 2005, Act 2207, § 1, eff. Aug. 12, 2005. A.C.A. § 5-27-205, AR ST § 5-27-205  
Current through end of 2014 Second Extraordinary Session.

## **Ark. Code Ann. § 5-27-206 (2014). ENDANGERING THE WELFARE OF A MINOR IN THE SECOND DEGREE**

(a) (1) A person commits the offense of endangering the welfare of a minor in the second degree if he or she knowingly engages in conduct creating a substantial risk of serious harm to the physical or mental welfare of another person known by the person to be a minor.

(2) As used in this section, "serious harm to the physical or mental welfare" means physical or mental injury that causes:

(A) Protracted disfigurement;

(B) Protracted impairment of physical or mental health; or

(C) Loss or protracted impairment of the function of any bodily member or organ.

CREDIT(S)

Acts of 1975, Act 280, § 2407; Acts of 2001, Act 236, § 2, eff. Aug. 13, 2001; Acts of 2005, Act 2207, § 1, eff. Aug. 12, 2005. A.C.A. § 5-27-205, AR ST § 5-27-205  
Current through end of 2014 Second Extraordinary Session.

### **Ark. Code Ann. § 5-27-207 (2014). ENDANGERING THE WELFARE OF A MINOR IN THE THIRD DEGREE**

(a) (1) A person commits the offense of endangering the welfare of a minor in the third degree if the person recklessly engages in conduct creating a substantial risk of serious harm to the physical or mental welfare of a person known by the actor to be a minor.

(2) As used in this section, "serious harm to the physical or mental welfare" means physical or mental injury that causes:

(A) Protracted disfigurement;

(B) Protracted impairment of physical or mental health; or

(C) Loss or protracted impairment of the function of any bodily member or organ.

(b) Endangering the welfare of a minor in the third degree is a Class B misdemeanor.

CREDIT(S)

Acts of 1975, Act 280, § 2407; Acts of 2001, Act 236, § 2, eff. Aug. 13, 2001; Acts of 2005, Act 2207, § 1, eff. Aug. 12, 2005. A.C.A. § 5-27-205, AR ST § 5-27-205  
Current through end of 2014 Second Extraordinary Session.

### **Ark. Code Ann. § 5-27-221 (2014). PERMITTING ABUSE OF A MINOR**

(a) A person commits the offense of permitting abuse of a minor if, being a parent, guardian, or person legally charged with the care or custody of a minor, he or she recklessly fails to take action to prevent the abuse of a minor.

(b) It is a defense to a prosecution for the offense of permitting abuse of a minor if the parent, guardian, or person legally charged with the care or custody of the minor takes immediate steps to end the abuse of the minor, including prompt notification of a medical or law enforcement authority, upon first knowing or having good reason to know that abuse has occurred.

(c) Permitting abuse of a minor is a:

(1) Class B felony if the abuse of the minor:

(A) Consisted of sexual intercourse;

(B) Consisted of deviate sexual activity; or

(C) Caused serious physical injury or death to the minor; or

(2) Class D felony if the abuse of the minor:

(A) Consisted of sexual contact; or

(B) Caused physical injury to the minor.

(d) As used in this section:

(1) "Abuse" means only sexual intercourse, deviate sexual activity, sexual contact, or causing physical injury, serious physical injury, or death, which could be prosecuted as a delinquent or criminal act; and

(2) "Minor" means a person under eighteen (18) years of age.

CREDIT(S)

Acts of 1985, Act 990, §§ 1 to 3; Acts of 1993, Act 1126, § 9, eff. Sept. 1, 1993; Acts of 2001, Act 1374, § 1, eff. Aug. 13, 2001; Acts of 2003, Act 1318, § 1, eff. July 16, 2003.

Current through end of 2014 Second Extraordinary Session.

## **CALIFORNIA**

### **Cal. Penal Code § 273A (2014). 273A. WILLFUL HARM OR INJURY TO CHILD; ENDANGERING PERSON OR HEALTH; PUNISHMENT; CONDITIONS OF PROBATION**

(a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by

imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 48 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3)(A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

## CREDIT(S)

(Added by Stats.1905, c. 568, p. 759, § 5. Amended by Stats.1963, c. 783, p. 1811, § 1; Stats.1965, c. 697, p. 2091, § 1; Stats.1976, c. 1139, p. 5108, § 165, operative July 1, 1977; Stats.1980, c. 1117, p. 3590, § 4; Stats.1984, c. 1423, § 2, eff. Sept. 26, 1984; Stats.1993, c. 1253 (A.B.897), § 1; Stats.1994, c. 1263 (A.B.1328), § 3; Stats.1996, c. 1090 (A.B.3215), § 1; Stats.1997, c. 134 (A.B.273), § 1.)

Current with urgency legislation through Ch. 185 of 2014 Reg.Sess., Res. Ch. 187 of 2013-2014 2nd Ex.Sess., and all propositions on the 6/3/2014 ballot

## COLORADO

### **Colo. Rev. Stat. § 18-6-401 (2009). CHILD ABUSE**

(1)(a) A person commits child abuse if such person causes an injury to a child's life or health, or permits a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, or engages in a continued pattern of conduct that results in malnourishment, lack of proper medical care, cruel punishment, mistreatment, or an accumulation of injuries that ultimately results in the death of a child or serious bodily injury to a child.

(b)(I) Except as otherwise provided in subparagraph (III) of this paragraph (b), a person commits child abuse if such person excises or infibulates, in whole or in part, the labia majora, labia minora, vulva, or clitoris of a female child. A parent, guardian, or other person legally responsible for a female child or charged with the care or custody of a female child commits child abuse if he or she allows the excision or infibulation, in whole or in part, of such child's labia majora, labia minora, vulva, or clitoris.

(II) Belief that the conduct described in subparagraph (I) of this paragraph (b) is required as a matter of custom, ritual, or standard practice or consent to the conduct by the child on whom it is performed or by the child's parent or legal guardian shall not be an affirmative defense to a charge of child abuse under this paragraph (b).

(III) A surgical procedure as described in subparagraph (I) of this paragraph (b) is not a crime if the procedure:

(A) Is necessary to preserve the health of the child on whom it is performed and is performed by a person licensed to practice medicine under article 36 of title 12, C.R.S.; or



(B) Is performed on a child who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed to practice medicine under article 36 of title 12, C.R.S.

(IV) If the district attorney having jurisdiction over a case arising under this paragraph (b) has a reasonable belief that any person arrested or charged pursuant to this paragraph (b) is not a citizen or national of the United States, the district attorney shall report such information to the immigration and naturalization service, or any successor agency, in an expeditious manner.

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

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

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

(2) In this section, "child" means a person under the age of sixteen years.

(3) The statutory privilege between patient and physician and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.

(4) No person, other than the perpetrator, complicitor, coconspirator, or accessory, who reports an instance of child abuse to law enforcement officials shall be subjected to criminal or civil liability for any consequence of making such report unless he knows at the time of making it that it is untrue.

(5) Deferred prosecution is authorized for a first offense under this section unless the provisions of subsection (7.5) of this section or section 18-6-401.2 apply.

(6) Repealed by Laws 2001, Ch. 125, § 1, eff. July 1, 2001.

(7)(a) Where death or injury results, the following shall apply:

(I) When a person acts knowingly or recklessly and the child abuse results in death to the child, it is a class 2 felony except as provided in paragraph (c) of this subsection (7).

(II) When a person acts with criminal negligence and the child abuse results in death to the child, it is a class 3 felony.

(III) When a person acts knowingly or recklessly and the child abuse results in serious bodily injury to the child, it is a class 3 felony.

(IV) When a person acts with criminal negligence and the child abuse results in serious bodily injury to the child, it is a class 4 felony.

(V) When a person acts knowingly or recklessly and the child abuse results in any injury other than serious bodily injury, it is a class 1 misdemeanor; except that, if it is committed under the circumstances described in paragraph (e) of this subsection (7), then it is a class 5 felony.

(VI) When a person acts with criminal negligence and the child abuse results in any injury other than serious bodily injury to the child, it is a class 2 misdemeanor; except that, if it is committed under the circumstances described in paragraph (e) of this subsection (7), then it is a class 5 felony.

(b) Where no death or injury results, the following shall apply:

(I) An act of child abuse when a person acts knowingly or recklessly is a class 2 misdemeanor; except that, if it is committed under the circumstances described in paragraph (e) of this subsection (7), then it is a class 5 felony.

(II) An act of child abuse when a person acts with criminal negligence is a class 3 misdemeanor; except that, if it is committed under the circumstances described in paragraph (e) of this subsection (7), then it is a class 5 felony.

(c) When a person knowingly causes the death of a child who has not yet attained twelve years of age and the person committing the offense is one in a position of trust with respect to the child, such person commits the crime of murder in the first degree as described in section 18-3-102(1)(f).

(d) When a person commits child abuse as described in paragraph (c) of subsection (1) of this section, it is a class 3 felony.

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

(I) The defendant, who was in a position of trust, as described in section 18-3-401(3.5), in relation to the child, participated in a continued pattern of conduct that resulted in the child's malnourishment or failed to ensure the child's access to proper medical care;

(II) The defendant participated in a continued pattern of cruel punishment or unreasonable isolation or confinement of the child;

(III) The defendant made repeated threats of harm or death to the child or to a significant person in the child's life, which threats were made in the presence of the child;

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

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

(7.3) Felony child abuse is an extraordinary risk crime that is subject to the modified presumptive sentencing range specified in section 18-1.3-401(10). Misdemeanor child abuse is an extraordinary risk crime that is subject to the modified sentencing range specified in section 18-1.3-501(3).

(7.5) If a defendant is convicted of the class 2 or class 3 felony of child abuse under subparagraph (I) or (III) of paragraph (a) of subsection (7) of this section, the court shall sentence the defendant in accordance with section 18-1.3-401(8)(d).

(8) Repealed by Laws 1990, H.B.90-1093, § 6.

(9) If a parent is charged with permitting a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, pursuant to paragraph (a) of subsection (1) of this section, and the child was seventy-two hours old or younger at the time of the alleged offense, it is an affirmative defense to the charge that the parent safely, reasonably, and knowingly handed the child over to a firefighter, as defined in section 18-3-201(1.5), or to a hospital staff member who engages in the admission, care, or treatment of patients, when the firefighter is at a fire station or the hospital staff member is at a hospital.

CREDIT(S)

Amended by Laws 1975, H.B.1203, § 15; Laws 1979, H.B.1110, § 8; Laws 1980, H.B.1035, §§ 1, 2; Laws 1985, S.B.42, §§ 1, 2; Laws 1987, S.B.144, § 21; Laws 1989, S.B.29, § 2; Laws 1990, H.B.90-1093, § 6, eff. April 3, 1990; Laws 1991, H.B.91-1229, § 1, eff. May 24, 1991; Laws 1995, H.B.95-1109, § 4, eff. July 1, 1995; Laws 1999, Ch. 216, § 2, eff. May 24, 1999; Laws 2000, Ch. 384, § 1, eff. June 3, 2000; Laws 2001, Ch. 125, § 1, eff. July 1, 2001; Laws 2002, Ch. 318, § 198, eff. Oct. 1, 2002; Laws 2003, Ch. 359, §§ 1, 2, eff. July 1, 2003; Laws 2004, Ch. 200, § 9, eff. Aug. 4, 2004; Laws 2006, Ch. 341, § 4, eff. July 1, 2006; Laws 2006, Ch. 360, § 1, eff. July 1, 2006; Laws 2009, Ch. 343, § 2, eff. July 1, 2009; Laws 2011, Ch. 264, § 33, eff. Aug. 10, 2011; Laws 2014, Ch. 336, § 10, eff. Aug. 6, 2014.

Current through the Second Regular Session of the Sixty-Ninth General Assembly (2014)

## CONNECTICUT

### CONN. GEN. STAT. § 53-21 (2014). INJURY OR RISK OF INJURY TO, OR IMPAIRING MORALS OF, CHILDREN. SALE OF CHILDREN

(a) Any person who (1) wilfully or unlawfully causes or permits any child under the age of sixteen years to be placed in such a situation that the life or limb of such child is endangered, the health of such child is likely to be injured or the morals of such child are likely to be impaired, or does any act likely to impair the health or morals of any such child, or (2) has contact with the intimate parts, as defined in section 53a-65, of a child under the age of sixteen years or subjects a child under sixteen years of age to contact with the intimate parts of such person, in a sexual and indecent manner likely to impair the health or morals of such child, or (3) permanently transfers the legal or physical custody of a child under the age of sixteen years to another person for money or other valuable consideration or acquires or receives the legal or physical custody of a child under the age of sixteen years from another person upon payment of money or other valuable consideration to such other person or a third person, except in connection with an adoption proceeding that complies with the provisions of chapter 803, [FN1] or (4) intentionally and unreasonably interferes with or prevents the making of a report of suspected child abuse or neglect required under section 17a-101a, shall be guilty of (A) a class D felony for a violation of subdivision (4) of this subsection, (B) a class C felony for a violation of subdivision (1) or (3) of this subsection, and (C) a class B felony for a violation of subdivision (2) of this subsection, except that, if the violation is of subdivision (2) of this subsection and the victim of the offense is under thirteen years of age, such person shall be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court.

(b) The act of a parent or agent leaving an infant thirty days or younger with a designated employee pursuant to section 17a-58 shall not constitute a violation of this section.

CREDIT(S)

(1949 Rev., § 8369; 1995, P.A. 95-142, § 1; 1997, P.A. 97-147, § 1; 2000, P.A. 00-207, § 6; 2002, P.A. 02-138, § 4; 2007, P.A. 07-143, § 4, eff. July 1, 2007; 2013, P.A. 13-297, § 1.)

Current with enactments of Public Acts of the 2014 February Regular Session of the Connecticut General Assembly effective on or before July 1, 2014.

## **DELAWARE**

### **Del. Code Ann. tit.11, § 1102 (2014). ENDANGERING THE WELFARE OF A CHILD; CLASS E OR G FELONY**

(a) A person is guilty of endangering the welfare of a child when:

(1) Being a parent, guardian or any other person who has assumed responsibility for the care or supervision of a child the person:

a. Intentionally, knowingly or recklessly acts in a manner likely to be injurious to the physical, mental or moral welfare of the child; or

b. Intentionally, knowingly or recklessly does or fails to do any act, including failing to report a missing child, with the result that the child becomes a neglected or abused child.

(2) The person knowingly contributes to the delinquency of any child less than 18 years old by doing or failing to do any act with the result, alone or in conjunction with other acts or circumstances, that the child becomes a delinquent child; or

(3) The person knowingly encourages, aids, abets or conspires with the child to run away from the home of the child's parents, guardian or custodian; or the person knowingly and illegally harbors a child who has run away from home; or

(4) The person commits any violent felony, or reckless endangering second degree, assault third degree, terroristic threatening, or unlawful imprisonment second degree against a victim, knowing that such felony or misdemeanor was witnessed, either by sight or sound, by a child less than 18 years of age who is a member of the person's family or the victim's family.

(5) The person commits the offense of driving under the influence as set forth in § 4177 of Title 21, or the offense of operating a vessel or boat under the influence as set forth in § 2302 of Title 23, and during the commission of the offense knowingly permits a child less than 18 years of age to be a passenger in or on such vehicle, vessel or boat.

(6) The person commits any offense set forth in Chapter 47 of Title 16 in any dwelling, knowing that any child less than 18 years of age is present in the dwelling at the time.

(7) The person provides or permits a child to consume or inhale any substance not prescribed to the child by a physician, as defined in §§ 4714, 4716, 4718, 4720, and 4722 of Title 16.

(b) Endangering the welfare of a child shall be punished as follows:

(1) When the death of a child occurs while the child's welfare was endangered as defined in subsection (a) of this section, endangering the welfare of a child is a class E felony;

(2) When serious physical injury to a child occurs while the child's welfare was endangered as defined in subsection (a) of this section, endangering the welfare of a child is a class G felony;

(3) When a child becomes the victim of a sexual offense as defined in § 761(g) of this title while the child's welfare was endangered as defined in subsection (a) of this section, endangering the welfare of a child is a class G felony;

(4) In all other cases, endangering the welfare of a child is a class A misdemeanor.

(c) For the purpose of imposing the penalties prescribed in subdivision (b)(1), (b)(2) or (b)(3) of this section, it is not necessary to prove the person's state of mind or liability for causation with regard to the resulting death of or physical injury to the child or sexual offense against the child, notwithstanding the provisions of § 251, § 252, § 261, § 262, § 263 or § 264 of this title, or any other statutes to the contrary.

#### CREDIT(S)

58 Laws 1972, ch. 497, § 1; 61 Laws 1978, ch. 334, § 6; 67 Laws 1989, ch. 130, § 8; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995; 70 Laws 1996, ch. 451, §§ 1, 2, eff. July 5, 1996; 71 Laws 1998, ch. 424, § 3, eff. July 13, 1998; 73 Laws 2001, ch. 208, §§ 1-3, eff. June 30, 2001; 77 Laws 2009, ch. 34, § 1, eff. May 22, 2009; 78 Laws 2012, ch. 242, § 1, eff. May 21, 2012; 78 Laws 2012, ch. 406, § 2, eff. Sept. 12, 2012.

Current through 79 Laws 2014, ch. 388. Revisions to 2014 Acts by the Delaware Code Revisors were unavailable at the time of publication

## **DISTRICT OF COLUMBIA**

### **D.C. Code § 22-1101 (2014). Definition and penalty: Cruelty to Children**

§ 22-1101. Definition and penalty.

(a) A person commits the crime of cruelty to children in the first degree if that person intentionally, knowingly, or recklessly tortures, beats, or otherwise willfully maltreats a child under 18 years of age or engages in conduct which creates a grave risk of bodily injury to a child, and thereby causes bodily injury.

(b) A person commits the crime of cruelty to children in the second degree if that person intentionally, knowingly, or recklessly:

(1) Maltreats a child or engages in conduct which causes a grave risk of bodily injury to a child;  
or

(2) Exposes a child, or aids and abets in exposing a child in any highway, street, field house, outhouse or other place, with intent to abandon the child.

(c)(1) Any person convicted of cruelty to children in the first degree shall be fined not more than the amount set forth in § 22-3571.01 or be imprisoned not more than 15 years, or both.

(2) Any person convicted of cruelty to children in the second degree shall be fined not more than the amount set forth in § 22-3571.01 or be imprisoned not more than 10 years, or both.

**Model Penal Code: Definition of “Recklessly”** Section 2.02(2)(c) defines “recklessly” as follows: A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct

CREDIT(S)

(Feb. 13, 1885, 23 Stat. 303, ch. 58, § 3; Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 814; May 21, 1994, D.C. Law 10-119, § 7, 41 DCR 1639; Aug. 20, 1994, D.C. Law 10-151, § 201, 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 211, 60 DCR 2064.)

Current through July 13, 2014.

## FLORIDA

### Fla. Stat. Ann. § 827.03 (2014). ABUSE, AGGRAVATED ABUSE, AND NEGLECT OF A CHILD; PENALTIES

.....

(e) “Neglect of a child” means:

1. A caregiver's failure or omission to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child; or
2. A caregiver's failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Except as otherwise provided in this section, neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

#### **(2) Offenses.--**

(a) A person who commits aggravated child abuse commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who willfully or by culpable negligence neglects a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A person who knowingly or willfully abuses a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A person who willfully or by culpable negligence neglects a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**(3) Expert testimony.--**

(a) Except as provided in paragraph (b), a physician may not provide expert testimony in a criminal child abuse case unless the physician is a physician licensed under chapter 458 or chapter 459 or has obtained certification as an expert witness pursuant to s. 458.3175.

(b) A physician may not provide expert testimony in a criminal child abuse case regarding mental injury unless the physician is a physician licensed under chapter 458 or chapter 459 who has completed an accredited residency in psychiatry or has obtained certification as an expert witness pursuant to s. 458.3175.

(c) A psychologist may not give expert testimony in a criminal child abuse case regarding mental injury unless the psychologist is licensed under chapter 490.

(d) The expert testimony requirements of this subsection apply only to criminal child abuse cases and not to family court or dependency court cases.

**CREDIT(S)**

Laws 1899, c. 4721, § 1; Laws 1901, c. 4971, § 1; Gen.St.1906, §§ 3236, 3238; Rev.Gen.St.1920, §§ 5069, 5071; Laws 1923, c. 9331, § 1; Comp.Gen.Laws 1927, §§ 7171, 7173; Laws 1965, c. 65-113, § 1; Laws 1970, c. 70-8, § 1; Laws 1971, c. 71-136, § 940; Fla.St.1973, § 828.04; Laws 1974, c. 74-383, § 49; Laws 1975, c. 75-298, § 30; Laws 1984, c. 84-238, § 1. Amended by Laws 1996, c. 96-322, § 8, eff. Oct. 1, 1996; Laws 1999, c. 99-168, § 16, eff. July 1, 1999; Laws 2003, c. 2003-130, § 1, eff. June 10, 2003; Laws 2012, c. 2012-155, § 9, eff. Oct. 1, 2012.

Current through Ch. 254 (End) of the 2014 2nd Reg. Sess. of the Twenty-Third Legislature



## GEORGIA

### **Ga. Code Ann. § 19-7-2 (2014). PARENTS' OBLIGATIONS TO CHILD**

It is the joint and several duty of each parent to provide for the maintenance, protection, and education of his or her child until the child reaches the age of majority, dies, marries, or becomes emancipated, whichever first occurs, except as otherwise authorized and ordered pursuant to subsection (e) of Code Section 19-6-15 and except to the extent that the duty of the parents is otherwise or further defined by court order.

#### CREDIT(S)

Laws 1979, p. 466, § 41; Laws 1992, p. 1833, § 2; Laws 2005, Act 52, § 12, eff. Jan. 1, 2007; Laws 2006, Act 650, § 7, eff. Jan. 1, 2007.

Current through Acts 343 to 346, 348 to 631, and 633 to 669 of the 2014 Regular Session.

## HAWAII

### **Haw. Rev. Stat. Ann. § 709-903.5 (2014). ENDANGERING THE WELFARE OF A MINOR IN THE FIRST DEGREE**

(1) Except as provided in subsection (2), a person commits the offense of endangering the welfare of a minor in the first degree if, having care or custody of a minor, the person:

(a) Intentionally or knowingly allows another person to inflict serious or substantial bodily injury on the minor; or

(b) Intentionally or knowingly causes or permits the minor to inject, ingest, inhale, or otherwise introduce into the minor's body any controlled substance listed in sections 329-14, 329-16, 329-18, and 329-20 that has not been prescribed by a physician for the minor, except as permitted under section 329-122.

(2) It shall be a defense to prosecution under sections 709-903.5(1) and 709-904(1) if, at the time the person allowed another to inflict serious or substantial bodily injury on a minor, the person reasonably believed the person would incur serious or substantial bodily injury in acting to prevent the infliction of serious or substantial bodily injury on the minor.

(3) Endangering the welfare of a minor in the first degree is a class C felony.

#### CREDIT(S)

Laws 1986, ch. 314, § 70; Laws 2006, ch. 249, § 1; Laws 2008, ch. 81, § 1, eff. July 1, 2008.  
Current through Act 235 End of the 2014 Regular Session

**Haw. Rev. Stat. Ann. § 709-904 (2014). ENDANGERING THE WELFARE OF A MINOR IN THE SECOND DEGREE**

(1) Except as provided in section 709-903.5(2), a person commits the offense of endangering the welfare of a minor in the second degree if, having care or custody of a minor, the person:

(a) Recklessly allows another person to inflict serious or substantial bodily injury on the minor;  
or

(b) Recklessly causes or permits the minor to inject, ingest, inhale, or otherwise introduce into the minor's body any controlled substance listed in sections 329-14, 329-16, 329-18, and 329-20 that has not been prescribed by a physician for the minor, except as permitted under section 329-122. This subsection shall not apply to nursing mothers who may cause the ingestion or introduction of detectable amounts of any controlled substance listed in sections 329-14, 329-16, 329-18, and 329-20 to their minor children through breastfeeding.

(2) A person commits the offense of endangering the welfare of a minor in the second degree if, being a parent, guardian, or other person whether or not charged with the care or custody of a minor, the person knowingly endangers the minor's physical or mental welfare by violating or interfering with any legal duty of care or protection owed such minor.

(3) Endangering the welfare of a minor in the second degree is a misdemeanor.

**CREDIT(S)**

Laws 1986, ch. 314, § 70; Laws 2006, ch. 249, § 1; Laws 2008, ch. 81, § 1, eff. July 1, 2008.  
Current through Act 235 End of the 2014 Regular Session

## **IDAHO**

**Idaho Code Ann. § 18-1501 (2014). INJURY TO CHILDREN**

(1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one (1) year, or in the state prison for not less than one (1) year nor more than ten (10) years.

(2) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or

permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(3) A person over the age of eighteen (18) years commits the crime of injury to a child if the person transports a minor in a motor vehicle or vessel as defined in section 67-7003, Idaho Code, while under the influence of alcohol, intoxicating liquor, a controlled substance, or any combination thereof, in violation of section 18-8004 or 67-7034, Idaho Code. Any person convicted of violating this subsection is guilty of a misdemeanor. If a child suffers bodily injury or death due to a violation of this subsection, the violation will constitute a felony punishable by imprisonment for not more than ten (10) years, unless a more severe penalty is otherwise prescribed by law.

(4) The practice of a parent or guardian who chooses for his child treatment by prayer or spiritual means alone shall not for that reason alone be construed to have violated the duty of care to such child.

(5) As used in this section, "willfully" means acting or failing to act where a reasonable person would know the act or failure to act is likely to result in injury or harm or is likely to endanger the person, health, safety or well-being of the child.

#### CREDIT(S)

S.L. 1977, ch. 304, § 3; S.L. 1996, ch. 167, § 1; S.L. 1997, ch. 306, § 1; S.L. 2001, ch. 49, § 1; S.L. 2005, ch. 151, § 1.

Current through the 2014 Second Regular Session of the 62nd Idaho Legislature.

## ILLINOIS

### **720 ILL. COMP. STAT. 5/12C-5 (2014). ENDANGERING THE LIFE OR HEALTH OF A CHILD.**

(a) A person commits endangering the life or health of a child when he or she knowingly: (1) causes or permits the life or health of a child under the age of 18 to be endangered; or (2) causes or permits a child to be placed in circumstances that endanger the child's life or health. It is not a violation of this Section for a person to relinquish a child in accordance with the Abandoned Newborn Infant Protection Act. [FN1]

(b) A trier of fact may infer that a child 6 years of age or younger is unattended if that child is left in a motor vehicle for more than 10 minutes.

(c) "Unattended" means either: (i) not accompanied by a person 14 years of age or older; or (ii) if accompanied by a person 14 years of age or older, out of sight of that person.

(d) Sentence. A violation of this Section is a Class A misdemeanor. A second or subsequent violation of this Section is a Class 3 felony. A violation of this Section that is a proximate cause of the death of the child is a Class 3 felony for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 2 years and not more than 10 years. A parent, who is found to be in violation of this Section with respect to his or her child, may be sentenced to probation for this offense pursuant to Section 12C-15.

#### CREDIT(S)

Laws 1961, p. 1983, § 12-21.6, added by P.A. 88-479, § 10, eff. Sept. 9, 1993. Amended by P.A. 90-687, § 5, eff. July 31, 1998; P.A. 92-408, § 96, eff. Aug. 17, 2001; P.A. 92-432, § 96, eff. Aug. 17, 2001; P.A. 92- 515, § 5, eff. June 1, 2002; P.A. 92-651, § 81, eff. July 11, 2002. Amended and renumbered as § 12C-5 by P.A. 97-1109, § 1-5, eff. Jan. 1, 2013.

Current through P.A. 98-803, with the exception of P.A. 98-756, of the 2014 Reg. Sess.

### **720 Ill. Comp. Stat. 5/12C-15 (2014). CHILD ABANDONMENT OR ENDANGERMENT; PROBATION**

(a) Whenever a parent of a child as determined by the court on the facts before it, pleads guilty to or is found guilty of, with respect to his or her child, child abandonment under Section 12C-10 of this Article or endangering the life or health of a child under Section 12C-5 of this Article, the court may, without entering a judgment of guilt and with the consent of the person, defer further proceedings and place the person upon probation upon the reasonable terms and conditions as the court may require. At least one term of the probation shall require the person to cooperate with the Department of Children and Family Services at the times and in the programs that the Department of Children and Family Services may require.

(b) Upon fulfillment of the terms and conditions imposed under subsection (a), the court shall discharge the person and dismiss the proceedings. Discharge and dismissal under this Section shall be without court adjudication of guilt and shall not be considered a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime. However, a record of the disposition shall be reported by the clerk of the circuit court to the Department of State Police under Section 2.1 of the Criminal Identification Act, [FN1] and the record shall be maintained and provided to any civil authority in connection with a determination of whether the person is an acceptable candidate for the care, custody and supervision of children.

(c) Discharge and dismissal under this Section may occur only once.

(d) Probation under this Section may not be for a period of less than 2 years.

(e) If the child dies of the injuries alleged, this Section shall be inapplicable.

**CREDIT(S)**

Laws 1961, p. 1983, § 12-22, added by P.A. 88-479, § 10, eff. Sept. 9, 1993. Amended and renumbered as § 12C-15 by P.A. 97-1109, § 1-5, eff. Jan. 1, 2013.

Current through P.A. 98-803, with the exception of P.A. 98-756, of the 2014 Reg. Sess.

**720 ILL. COMP. STAT. 646/50 (2014). METHAMPHETAMINE-RELATED CHILD ENDANGERMENT.**

(a) Methamphetamine-related child endangerment.

(1) It is unlawful to engage in methamphetamine-related child endangerment. A person engages in methamphetamine-related child endangerment when the person knowingly endangers the life and health of a child by exposing or allowing exposure of the child to a methamphetamine manufacturing environment.

(2) A person who violates paragraph (1) of this subsection (a) is guilty of a Class 2 felony.

(b) Aggravated methamphetamine-related child endangerment.

(1) It is unlawful to engage in aggravated methamphetamine-related child endangerment. A person engages in aggravated methamphetamine-related child endangerment when the person violates paragraph (1) of this subsection (a) of this Section and the child experiences death, great bodily harm, disability, or disfigurement as a result of the methamphetamine-related child endangerment.

(2) A person who violates paragraph (1) of this subsection (b) is guilty of a Class X felony, subject to a term of imprisonment of not less than 6 years and not more than 30 years, and subject to a fine not to exceed \$100,000.

**CREDIT(S)**

P.A. 94-556, § 50, eff. Sept. 11, 2005.

720 I.L.C.S. 646/50, IL ST CH 720 § 646/50

Current through P.A. 98-803, with the exception of P.A. 98-756, of the 2014 Reg. Sess.

# INDIANA

## **Ind. Code § 31-34-1-2 (2012). ENDANGERMENT OF PHYSICAL OR MENTAL HEALTH**

Sec. 2. (a) A child is a child in need of services if before the child becomes eighteen (18) years of age:

- (1) the child's physical or mental health is seriously endangered due to injury by the act or omission of the child's parent, guardian, or custodian; and
- (2) the child needs care, treatment, or rehabilitation that:
  - (A) the child is not receiving; and
  - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) Evidence that the illegal manufacture of a drug or controlled substance is occurring on property where a child resides creates a rebuttable presumption that the child's physical or mental health is seriously endangered.

### CREDIT(S)

As added by P.L.1-1997, SEC.17. Amended by P.L.17-2001, SEC.8; P.L.2-2005, SEC.77, eff. April 25, 2005.

The statutes and Constitution are current with all 2014 Public Laws of the 2014 Second Regular Session and Second Regular Technical Session of the 118th General Assembly.

# IOWA

## **Iowa Code § 726.6 (2014). CHILD ENDANGERMENT**

1. A person who is the parent, guardian, or person having custody or control over a child or a minor under the age of eighteen with a mental or physical disability, or a person who is a member of the household in which a child or such a minor resides, commits child endangerment when the person does any of the following:

a. Knowingly acts in a manner that creates a substantial risk to a child or minor's physical, mental or emotional health or safety.

b. By an intentional act or series of intentional acts, uses unreasonable force, torture or cruelty that results in bodily injury, or that is intended to cause serious injury.

c. By an intentional act or series of intentional acts, evidences unreasonable force, torture or cruelty which causes substantial mental or emotional harm to a child or minor.

d. Willfully deprives a child or minor of necessary food, clothing, shelter, health care or supervision appropriate to the child or minor's age, when the person is reasonably able to make the necessary provisions and which deprivation substantially harms the child or minor's physical, mental or emotional health. For purposes of this paragraph, the failure to provide specific medical treatment shall not for that reason alone be considered willful deprivation of health care if the person can show that such treatment would conflict with the tenets and practice of a recognized religious denomination of which the person is an adherent or member. This exception does not in any manner restrict the right of an interested party to petition the court on behalf of the best interest of the child or minor.

e. Knowingly permits the continuing physical or sexual abuse of a child or minor. However, it is an affirmative defense to this subsection if the person had a reasonable apprehension that any action to stop the continuing abuse would result in substantial bodily harm to the person or the child or minor.

f. Abandons the child or minor to fend for the child or minor's self, knowing that the child or minor is unable to do so.

g. Knowingly permits a child or minor to be present at a location where amphetamine, its salts, isomers, or salts of isomers, or methamphetamine, its salts, isomers, or salts of isomers, is manufactured in violation of section 124.401, subsection 1, or where a product is possessed in violation of section 124.401, subsection 4.

h. Knowingly allows a person custody or control of, or unsupervised access to a child or a minor after knowing the person is required to register or is on the sex offender registry as a sex offender under chapter 692A. However, this paragraph does not apply to a person who is a parent or guardian of a child or a minor, who is required to register as a sex offender, or to a person who is married to and living with a person required to register as a sex offender.

2. A parent or person authorized by the parent shall not be prosecuted for a violation of subsection 1, paragraph "f", relating to abandonment, if the parent or person authorized by the parent has voluntarily released custody of a newborn infant in accordance with section 233.2.

3. For the purposes of subsection 1, "person having control over a child or a minor" means any of the following:

a. A person who has accepted, undertaken, or assumed supervision of a child or such a minor from the parent or guardian of the child or minor.

b. A person who has undertaken or assumed temporary supervision of a child or such a minor without explicit consent from the parent or guardian of the child or minor.

c. A person who operates a motor vehicle with a child or such a minor present in the vehicle.

4. A person who commits child endangerment resulting in the death of a child or minor is guilty of a class "B" felony. Notwithstanding section 902.9, subsection 1, paragraph "b", a person convicted of a violation of this subsection shall be confined for no more than fifty years.

5. A person who commits child endangerment resulting in serious injury to a child or minor is guilty of a class "C" felony.

6. A person who commits child endangerment resulting in bodily injury to a child or minor or child endangerment in violation of subsection 1, paragraph "g", that does not result in a serious injury, is guilty of a class "D" felony.

7. A person who commits child endangerment that is not subject to penalty under subsection 4, 5, or 6 is guilty of an aggravated misdemeanor.

#### CREDIT(S)

Added by Acts 1976 (66 G.A.) ch. 1245 (ch. 1), § 2606, eff. Jan. 1, 1978. Amended by Acts 1977 (67 G.A.) ch. 147, § 27, eff. Jan. 1, 1978; Acts 1985 (71 G.A.) ch. 180, § 3; Acts 1996 (76 G.A.) ch. 1129, § 109; Acts 2001 (79 G.A.) ch. 3, §§ 2 to 5; Acts 2001 (79 G.A.) ch. 67, § 12, eff. April 24, 2001; Acts 2002 (79 G.A.) ch. 1119, § 104; Acts 2004 (80 G.A.) ch. 1004, § 1; Acts 2004 (80 G.A.) ch. 1151, §§ 3, 4; Acts 2005 (81 G.A.) ch. 158, H.F. 619, § 31; Acts 2007 (82 G.A.) ch. 126, S.F. 333, § 109; Acts 2009 (83 G.A.) ch. 119, S.F. 340, § 65; Acts 2013 (85 G.A.) ch. 30, H.F. 417, § 252.

Current with legislation from the 2014 Reg.Sess.

### **Iowa Code § 726.6A (2014). MULTIPLE ACTS OF CHILD ENDANGERMENT--PENALTY**

A person who engages in a course of conduct including three or more acts of child endangerment as defined in section 726.6 within a period of twelve months involving the same child or a minor with a mental or physical disability, where one or more of the acts results in



serious injury to the child or minor or results in a skeletal injury to a child under the age of four years, is guilty of a class "B" felony. Notwithstanding section 902.9, subsection 2, a person convicted of a violation of this section shall be confined for no more than fifty years.

CREDIT(S)

Added by Acts 1994 (75 G.A.) ch. 1172, § 59. Amended by Acts 1996 (76 G.A.) ch. 1129, § 110; Acts 2013 (85 G.A.) ch. 30, H.F. 417, § 253.

Current with legislation from the 2014 Reg.Sess.

**Iowa Code § 124.401C (2014). MANUFACTURING METHAMPHETAMINE IN PRESENCE OF MINORS**

1. In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older and who either directly or by extraction from natural substances, or independently by means of chemical processes, or both, unlawfully manufactures methamphetamine, its salts, isomers, or salts of its isomers in the presence of a minor shall be sentenced up to an additional term of confinement of five years. However, the additional term of confinement shall not be imposed on a person who has been convicted and sentenced for a child endangerment offense under section 726.6, subsection 1, paragraph "g", arising from the same facts.

2. For purposes of this section, the term "in the presence of a minor" shall mean, but is not limited to, any of the following:

- a. When a minor is physically present during the activity.
- b. When the activity is conducted in the residence of a minor.
- c. When the activity is conducted in a building where minors can reasonably be expected to be present.
- d. When the activity is conducted in a room offered to the public for overnight accommodation.
- e. When the activity is conducted in any multiple-unit residential building.

Current with legislation from the 2014 Reg.Sess.

CREDIT(S)

Added by Acts 1997 (77 G.A.) ch. 125, § 1. Amended by Acts 2004 (80 G.A.) ch. 1151, § 1; Acts 2006 (81 G.A.) ch. 1030, S.F. 2253, § 13.  
Current with legislation from the 2014 Reg.Sess

## **KANSAS**

### **KAN. STAT. ANN. § 21-5601 (2014). ENDANGERING A CHILD ; AGGRAVATED ENDANGERING A CHILD**

(a) Endangering a child is knowingly and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health may be endangered.

(b) Aggravated endangering a child is:

(1) Recklessly causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health is endangered;

(2) causing or permitting such child to be in an environment where the person knows or reasonably should know that any person is distributing, possessing with intent to distribute, manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto; or

(3) causing or permitting such child to be in an environment where the person knows or reasonably should know that drug paraphernalia or volatile, toxic or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto.

(c)(1) Endangering a child is a class A person misdemeanor.

(2) Aggravated endangering a child is a severity level 9, person felony. The sentence for a violation of aggravated endangering a child shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(d) Nothing in subsection (a) shall be construed to mean a child is endangered for the sole reason the child's parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

(e) As used in this section:

(1) "Manufacture" means the same as in K.S.A. 21-5701, and amendments thereto; and

(2) "drug paraphernalia" means the same as in K.S.A. 21-5701, and amendments thereto.

CREDIT(S)

Laws 2010, ch. 136, § 78, eff. July 1, 2011; Laws 2011, ch. 30, § 34, eff. July 1, 2011.

Statutes are current through laws effective July 1, 2014, including Chapters 1 through 152 (End) of the 2014 Regular Session of the Kansas Legislature.

## KENTUCKY

### **KY. REV. STAT. ANN. § 530.060 (2014). ENDANGERING WELFARE OF MINOR**

(1) A parent, guardian or other person legally charged with the care or custody of a minor is guilty of endangering the welfare of a minor when he fails or refuses to exercise reasonable diligence in the control of such child to prevent him from becoming a neglected, dependent or delinquent child.

(2) Endangering the welfare of a minor is a Class A misdemeanor.

CREDIT(S)

HISTORY: 1974 c 406, § 262, eff. 1-1-75

Current through the end of the 2014 legislation

### **KY. REV. STAT. ANN. § 218A.1441 (2014). CONTROLLED SUBSTANCE ENDANGERMENT TO A CHILD IN THE FIRST DEGREE; PENALTY**

(1) A person is guilty of controlled substance endangerment to a child in the first degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child dies as a result of the commission of the offense.

(2) Controlled substance endangerment to a child in the first degree is a Class A felony.

CREDIT(S)

HISTORY: 2005 c 150, § 2, eff. 6-20-05

KRS § 218A.1441, KY ST § 218A.1441

Current through the end of the 2014 legislation

**KY. REV. STAT. ANN. § 218A.1442 (2014). CONTROLLED SUBSTANCE ENDANGERMENT TO A CHILD IN THE SECOND DEGREE; PENALTY**

(1) A person is guilty of controlled substance endangerment to a child in the second degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child receives serious physical injury as a result of the commission of the offense.

(2) Controlled substance endangerment to a child in the second degree is a Class B felony.

CREDIT(S)

HISTORY: 2005 c 150, § 2, eff. 6-20-05

KRS § 218A.1441, KY ST § 218A.1441

Current through the end of the 2014 legislation

**KY. REV. STAT. ANN. § 218A.1443 (2014). CONTROLLED SUBSTANCE ENDANGERMENT TO A CHILD IN THE THIRD DEGREE; PENALTY**

(1) A person is guilty of controlled substance endangerment to a child in the third degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child receives physical injury as a result of the commission of the offense.

(2) Controlled substance endangerment to a child in the third degree is a Class C felony.

CREDIT(S)

HISTORY: 2005 c 150, § 2, eff. 6-20-05

KRS § 218A.1441, KY ST § 218A.1441

Current through the end of the 2014 legislation

**KY. REV. STAT. ANN. § 218A.1444 (2014). CONTROLLED SUBSTANCE ENDANGERMENT TO A CHILD IN THE FOURTH DEGREE; PENALTY**

(1) A person is guilty of controlled substance endangerment to a child in the fourth degree when he or she knowingly causes or permits a child to be present when any person is illegally manufacturing a controlled substance or methamphetamine or possesses a hazardous chemical

substance with intent to illegally manufacture a controlled substance or methamphetamine under circumstances that place a child in danger of serious physical injury or death, if the child is not injured as a result of the commission of the offense.

(2) Controlled substance endangerment to a child in the fourth degree is a Class D felony.

CREDIT(S)

HISTORY: 2005 c 150, § 2, eff. 6-20-05

KRS § 218A.1441, KY ST § 218A.1441

Current through the end of the 2014 legislation

## LOUISIANA

### **La. Rev. Stat. Ann. § 14:91.4 (2014). CONTRIBUTING TO THE ENDANGERMENT OF A MINOR**

A. No person shall knowingly employ a person convicted of a sex offense as defined in R.S. 15:541, whose offense involved a minor child, to work in any of the following facilities:

(1) A day care center, residential home, community home, or group home or child care facility as defined in R.S. 46:1403; or

(2) A family child day care home as defined in R.S. 46:1441.1.

B. No person shall knowingly permit a person convicted of a sex offense as defined in R.S. 15:541 physical access to any of the following facilities:

(1) A day care center, residential home, community home, group home, or child care facility as defined in R.S. 46:1403; or

(2) A family child day care home as defined in R.S. 46:1441.1.

C. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

CREDIT(S)

Added by Acts 2009, No. 210, § 1, eff. Sept. 1, 2009.

LSA-R.S. 14:91.4, LA R.S. 14:91.4

Current through the 2014 Regular Session

with Acts effective on or before

December 31, 2014.

# MAINE

## ME. REV. STAT. ANN. TIT. 17-A, § 554 (2009). ENDANGERING THE WELFARE OF A CHILD

1. A person is guilty of endangering the welfare of a child if that person:

A. Knowingly permits a child under 16 years of age to enter or remain in a house of prostitution;

B. Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under 16 years of age any intoxicating liquor, cigarettes, tobacco, air rifles, gunpowder, smokeless powder or ammunition for firearms;

B-1. Being the parent, foster parent, guardian or other person having the care and custody of the child, cruelly treats that child by abuse, neglect or extreme punishment;

B-2. Being a parent, foster parent, guardian or other person responsible for the long-term general care and welfare of a child under 16, recklessly fails to take reasonable measures to protect the child from the risk of further bodily injury after knowing:

1) That the child had, in fact, sustained serious bodily injury or bodily injury under circumstances posing a substantial risk of serious bodily injury; and

2) That such bodily injury was, in fact, caused by the unlawful use of physical force by another person;

B-3. Being the parent, foster parent, guardian or other person having the care and custody of the child, knowingly deprives the child of necessary health care, with the result that the child is placed in danger of serious harm; or

C. Otherwise recklessly endangers the health, safety or welfare of a child under 16 years of age by violating a duty of care or protection.

2. It is an affirmative defense to prosecution under this section that:

A. The defendant was the parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of a child under 16 years of age who furnished the child cigarettes, tobacco or a reasonable amount of intoxicating liquor in the actor's

home and presence;

B. The defendant was a person acting pursuant to authority expressly or impliedly granted in Title 22; or

C. The defendant was the parent, foster parent, guardian or an adult approved by the parent, foster parent or guardian who furnished a child under 16 years of age an air rifle, gunpowder, smokeless powder or ammunition for a firearm for use in a supervised manner.

3. Endangering the welfare of a child is a Class D crime, except that a violation of subsection 1, paragraph B-2 is a Class C crime.

#### CREDIT(S)

1975, c. 499, § 1, eff. May 1, 1976; 1975, c. 740, § 71, eff. May 1, 1976; 1977, c. 696, § 170, eff. March 31, 1978; 1989, c. 445, § 7; 1991, c. 672, §§ 1, 2; 1995, c. 263, §§ 1, 2; 1995, c. 694, §§ C-3, C-4, eff. Oct. 1, 1997; 1999, c. 11, §§ 1, 2; 2001, c. 429, §§ 1 to 3; 2005, c. 373, §§ 1, 2.

Current with legislation through the 2013 Second Regular Session of the 126th Legislature. The Second Regular Session convened January 8, 2014 and adjourned May 2, 2014. The general effective date is August 1, 2014.

## MARYLAND

## MASSACHUSETTS

### **MASS. GEN. LAWS CH. 265, § 13J (2014). ASSAULT AND BATTERY UPON A CHILD; PENALTIES**

(a) For the purposes of this section, the following words shall, unless the context indicates otherwise, have the following meanings:--

"Bodily injury", substantial impairment of the physical condition including any burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury which occurs as the result

of repeated harm to any bodily function or organ including human skin or any physical condition which substantially imperils a child's health or welfare.

"Child", any person under fourteen years of age.

"Person having care and custody", a parent, guardian, employee of a home or institution or any other person with equivalent supervision or care of a child, whether the supervision is temporary or permanent.

"Substantial bodily injury", bodily injury which creates a permanent disfigurement, protracted loss or impairment of a function of a body member, limb or organ, or substantial risk of death.

(b) Whoever commits an assault and battery upon a child and by such assault and battery causes bodily injury shall be punished by imprisonment in the state prison for not more than five years or imprisonment in the house of correction for not more than two and one-half years.

Whoever commits an assault and battery upon a child and by such assault and battery causes substantial bodily injury shall be punished by imprisonment in the state prison for not more than fifteen years or imprisonment in the house of correction for not more than two and one-half years.

Whoever, having care and custody of a child, wantonly or recklessly permits bodily injury to such child or wantonly or recklessly permits another to commit an assault and battery upon such child, which assault and battery causes bodily injury, shall be punished by imprisonment for not more than two and one-half years in the house of correction.

Whoever, having care and custody of a child, wantonly or recklessly permits substantial bodily injury to such child or wantonly or recklessly permits another to commit an assault and battery upon such child, which assault and battery causes substantial bodily injury, shall be punished by imprisonment in the state prison for not more than five years, or by imprisonment in a jail or house of correction for not more than two and one-half years.

CREDIT(S)

Added by St.1993, c. 340, § 2.

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# MICHIGAN

# MINNESOTA

## **MINN. STAT. § 609.378 (2009). NEGLECT OR ENDANGERMENT OF CHILD**

Subdivision 1. Persons guilty of neglect or endangerment.

....

(a)(2) A parent, legal guardian, or caretaker who knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(b) A parent, legal guardian, or caretaker who endangers the child's person or health by:

(1) intentionally or recklessly causing or permitting a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death; or

(2) knowingly causing or permitting the child to be present where any person is selling, manufacturing, possessing immediate precursors or chemical substances with intent to manufacture, or possessing a controlled substance, as defined in section 152.01, subdivision 4, in violation of section 152.021, 152.022, 152.023, 152.024, or 152.0262; is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

If the endangerment results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

This paragraph does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, or from selecting health care as defined in subdivision 1, paragraph (a).

(c) A person who intentionally or recklessly causes a child under 14 years of age to be placed in a situation likely to substantially harm the child's physical health or cause the child's death as a result of the child's access to a loaded firearm is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

If the endangerment results in substantial harm to the child's physical health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

## Subd. 2. Defenses.

It is a defense to a prosecution under subdivision 1, paragraph (a), clause (2), or paragraph (b), that at the time of the neglect or endangerment there was a reasonable apprehension in the mind of the defendant that acting to stop or prevent the neglect or endangerment would result in substantial bodily harm to the defendant or the child in retaliation.

## CREDIT(S)

Laws 1983, c. 217, § 5, eff. Aug. 1, 1983. Amended by Laws 1984, c. 628, art. 3, § 11, eff. May 3, 1984; Laws 1989, c. 282, art. 2, § 199; Laws 1992, c. 571, art. 4, § 11; Laws 1993, c. 326, art. 4, § 22; Laws 2002, c. 314, § 6; Laws 2005, c. 136, art. 7, § 21.

Current with legislation of the 2014 Regular Session effective through July 31, 2014.

# MISSISSIPPI

## § 97-5-39. Child neglect, delinquency or abuse

(1)(a) Except as otherwise provided in this section, any parent, guardian or other person who intentionally, knowingly or recklessly commits any act or omits the performance of any duty, which act or omission contributes to or tends to contribute to the neglect or delinquency of any child or which act or omission results in the abuse of any child, as defined in Section 43-21-105(m) of the Youth Court Law, or who knowingly aids any child in escaping or absenting himself from the guardianship or custody of any person, agency or institution, or knowingly harbors or conceals, or aids in harboring or concealing, any child who has absented himself without permission from the guardianship or custody of any person, agency or institution to which the child shall have been committed by the youth court shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not to exceed one (1) year in jail, or by both such fine and imprisonment.

(b) For the purpose of this section, a child is a person who has not reached his eighteenth birthday. A child who has not reached his eighteenth birthday and is on active duty for a branch of the armed services, or who is married, is not considered a child for the purposes of this statute.

(c) If a child commits one (1) of the proscribed acts in subsection (2)(a), (b) or (c) of this section upon another child, then original jurisdiction of all such offenses shall be in youth court.

(d) If the child's deprivation of necessary clothing, shelter, health care or supervision appropriate to the child's age results in substantial harm to the child's physical, mental or

emotional health, the person may be sentenced to imprisonment in custody of the Department of Corrections for not more than five (5) years or to payment of a fine of not more than Five Thousand Dollars (\$5,000.00), or both.

(e) A parent, legal guardian or other person who knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child and may be sentenced to imprisonment in the custody of the Department of Corrections for not more than ten (10) years or to payment of a fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

(2) Any person shall be guilty of felonious child abuse in the following circumstances:

(a) Whether bodily harm results or not, if the person shall intentionally, knowingly or recklessly:

(i) Burn any child;

(ii) Physically torture any child;

(iii) Strangle, choke, smother or in any way interfere with any child's breathing;

(iv) Poison a child;

(v) Starve a child of nourishments needed to sustain life or growth;

(vi) Use any type of deadly weapon upon any child;

(b) If some bodily harm to any child actually occurs, and if the person shall intentionally, knowingly, or recklessly:

(i) Throw, kick, bite, or cut any child;

(ii) Strike a child under the age of fourteen (14) about the face or head with a closed fist;

(iii) Strike a child under the age of five (5) in the face or head;

(iv) Kick, bite, cut or strike a child's genitals; circumcision of a male child is not a violation under this subparagraph (iv);

(c) If serious bodily harm to any child actually occurs, and if the person shall intentionally, knowingly or recklessly:

(i) Strike any child on the face or head;

(ii) Disfigure or scar any child;

(iii) Whip, strike, or otherwise abuse any child;

(d) Any person, upon conviction under paragraph (a) or (c) of this subsection, shall be sentenced by the court to imprisonment in the custody of the Department of Corrections for a term of not less than five (5) years and up to life, as determined by the court. Any person, upon conviction under paragraph (b) of this subsection shall be sentenced by the court to imprisonment in the custody of the Department of Corrections for a term of not less than two (2) years nor more than ten (10) years, as determined by the court. For any second or subsequent conviction under this subsection (2), the person shall be sentenced to imprisonment for life.

(e) For the purposes of this subsection (2), "bodily harm" means any bodily injury to a child and includes, but is not limited to, bruising, bleeding, lacerations, soft tissue swelling, and external or internal swelling of any body organ.

(f) For the purposes of this subsection (2), "serious bodily harm" means any serious bodily injury to a child and includes, but is not limited to, the fracture of a bone, permanent disfigurement, permanent scarring, or any internal bleeding or internal trauma to any organ, any brain damage, any injury to the eye or ear of a child or other vital organ, and impairment of any bodily function.

(g) Nothing contained in paragraph (c) of this subsection shall preclude a parent or guardian from disciplining a child of that parent or guardian, or shall preclude a person in loco parentis to a child from disciplining that child, if done in a reasonable manner, and reasonable corporal punishment or reasonable discipline as to that parent or guardian's child or child to whom a person stands in loco parentis shall be a defense to any violation charged under paragraph (c) of this subsection.

(h) Reasonable discipline and reasonable corporal punishment shall not be a defense to acts described in paragraphs (a) and (b) of this subsection or if a child suffers serious bodily harm as a result of any act prohibited under paragraph (c) of this subsection.

(3) Nothing contained in this section shall prevent proceedings against the parent, guardian or other person under any statute of this state or any municipal ordinance defining any act as a crime or misdemeanor. Nothing in the provisions of this section shall preclude any person from having a right to trial by jury when charged with having violated the provisions of this section.

(4)(a) A parent, legal guardian or caretaker who endangers a child's person or health by knowingly causing or permitting the child to be present where any person is selling, manufacturing or possessing immediate precursors or chemical substances with intent to manufacture, sell or possess a controlled substance as prohibited under Section 41-29-139 or 41-29-313, is guilty of child endangerment and may be sentenced to imprisonment for not more than ten (10) years or to payment of a fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

(b) If the endangerment results in substantial harm to the child's physical, mental or emotional health, the person may be sentenced to imprisonment for not more than twenty (20) years or to payment of a fine of not more than Twenty Thousand Dollars (\$20,000.00), or both.

(5) Nothing contained in this section shall prevent proceedings against the parent, guardian or other person under any statute of this state or any municipal ordinance defining any act as a crime or misdemeanor. Nothing in the provisions of this section shall preclude any person from having a right to trial by jury when charged with having violated the provisions of this section.

(6) After consultation with the Department of Human Services, a regional mental health center or an appropriate professional person, a judge may suspend imposition or execution of a sentence provided in subsections (1) and (2) of this section and in lieu thereof require treatment over a specified period of time at any approved public or private treatment facility. A person may be eligible for treatment in lieu of criminal penalties no more than one (1) time.

(7) In any proceeding resulting from a report made pursuant to Section 43-21-353 of the Youth Court Law, the testimony of the physician making the report regarding the child's injuries or condition or cause thereof shall not be excluded on the ground that the physician's testimony violates the physician-patient privilege or similar privilege or rule against disclosure. The physician's report shall not be considered as evidence unless introduced as an exhibit to his testimony.

(8) Any criminal prosecution arising from a violation of this section shall be tried in the circuit, county, justice or municipal court having jurisdiction; provided, however, that nothing herein shall abridge or dilute the contempt powers of the youth court.

CREDIT(S)

Laws 1979, Ch. 506, § 75; Laws 1980, Ch. 550, § 28; Laws 1986, Ch. 383, § 1; Laws 1989, Ch. 566, § 3, eff. from and after passage (approved April 21, 1989); Laws 2005, Ch. 467, § 3, eff. July 1, 2005; Laws 2005, Ch. 491, § 3, eff. July 1, 2005. Amended by Laws 2013, Ch. 483 (H.B. 1259), § 1, eff. July 1, 2013

Current through 2014 Regular (End) and First and Second Extraordinary (End) Sessions.

### **MISS. CODE ANN. § 97-5-40 (2014). CONDONING CHILD ABUSE**

(1) Any parent, guardian, custodian, stepparent or any other person who lives in the household with a child, who knowingly condones an incident of felonious child abuse of that child, which consists of one or more violations of (a) subsection (2) of Section 97-5-39 or (b) felonious sexual battery of that child, which consists of one or more violations of Section 97-3-95 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not more than one (1) year or by a fine of not more than One Thousand Dollars (\$ 1,000.00), or both.

(2) A person shall not be considered to have condoned child abuse merely because such person does not report an act of child abuse.

(3) The provisions of this section shall be in addition to any other criminal law.

CREDIT(S)

Laws 1989, Ch. 566, § 1; Laws 1992, Ch. 557, § 1, eff. July 1, 1992.

Current through 2014 Regular (End) and First and Second Extraordinary (End) Sessions.

## **MISSOURI**

### **(NEW) MO. REV. STAT. § 568.045(2014). ENDANGERING THE WELFARE OF A CHILD IN THE FIRST DEGREE; PENALTIES**

568.045. 1. A person commits the crime **offense** of endangering the welfare of a child in the first degree if **he or she**:

(1) ~~The person~~ Knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old **of age**; or

(2) ~~The person~~ Knowingly engages in sexual conduct with a person under the age of seventeen years over whom the person is a parent, guardian, or otherwise charged with the care and custody;

(3) ~~The person~~ Knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter ~~195~~ **579**;

(4) ~~Such person enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or~~

(5) ~~Such person,~~ In the presence of a person **child** less than seventeen years of age or in a residence where a person **child** less than seventeen years of age resides, unlawfully manufactures, or attempts to manufacture compounds, possesses, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.

2. **The offense of** endangering the welfare of a child in the first degree is a class **C** felony unless the offense:

**(1) Is committed as part of a ritual or ceremony, or except on an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity, or where physical injury to the child results, or the offense is a second or subsequent offense under this section,** in which case the ~~crime~~ **offense** is a class **B** **C** felony;

**(2) Results in serious physical injury to the child, in which case the offense is a class B felony;**  
**or**

**(3) Results in the death of a child, in which case the offense is a class A felony.**

3. ~~This section shall be known as "Hope's Law".~~

MISSOURI 2014 LEGISLATIVE SERVICE Ninety-Seventh General Assembly, Second Regular Session  
Allowed to go into effect pursuant to Const. Art. III, § 31 on May 13, 2014

## **(NEW) MO. REV. STAT. § 568.050 (2014). ENDANGERING THE WELFARE OF A CHILD IN THE SECOND DEGREE**

1. A person commits the ~~crime~~ **offense** of endangering the welfare of a child in the second degree if **he or she**:

(1) ~~He or she~~ With criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years old **of age**; or

(2) ~~He or she~~ Knowingly encourages, aids or causes a child less than seventeen years ~~old~~ **of age** to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031; or

(3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years ~~old~~, ~~he or she~~ **of age**, recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him **or her** from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031; or

(4) ~~He or she~~ Knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section ~~195.130~~; or

(5) ~~He or she~~ operates a vehicle in violation of subdivision (2) or (3) of subsection 1 of section 565.024, subdivision (4) of subsection 1 of section 565.060, section 577.010, or section 577.012 while a child less than seventeen years old is present in the vehicle **579.105**.

2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he or she is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

3. **The offense of** endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of a ~~ritual or ceremony~~ **an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity**, in which case the ~~crime~~ **offense** is a class ~~D~~ **E** felony.

.MISSOURI 2014 LEGISLATIVE SERVICE Ninety-Seventh General Assembly, Second Regular Session Allowed to go into effect pursuant to Const. Art. III, § 31 on May 13, 2014

## MONTANA

### MONT. CODE ANN. § 45-5-622(2014). ENDANGERING WELFARE OF CHILDREN

(1) A parent, guardian, or other person supervising the welfare of a child less than 18 years old commits the offense of endangering the welfare of children if the parent, guardian, or other person knowingly endangers the child's welfare by violating a duty of care, protection, or support.

(2) Except as provided in 16-6-305, a parent or guardian or any person who is 18 years of age or older, whether or not the parent, guardian, or other person is supervising the welfare of the child, commits the offense of endangering the welfare of children if the parent, guardian, or other person knowingly contributes to the delinquency of a child less than:

(a) 18 years old by:

(i) supplying or encouraging the use of an intoxicating substance by the child; or

(ii) assisting, promoting, or encouraging the child to enter a place of prostitution; or

(b) 16 years old by assisting, promoting, or encouraging the child to:



(i) abandon the child's place of residence without the consent of the child's parents or guardian;  
or

(ii) engage in sexual conduct.

(3) A person, whether or not the person is supervising the welfare of a child less than 18 years of age, commits the offense of endangering the welfare of children if the person, in the residence of a child, in a building, structure, conveyance, or outdoor location where a child might reasonably be expected to be present, in a room offered to the public for overnight accommodation, or in any multiple-unit residential building, knowingly:

(a) produces or manufactures methamphetamine or attempts to produce or manufacture methamphetamine;

(b) possesses any material, compound, mixture, or preparation that contains any combination of the items listed in 45-9-107 with intent to manufacture methamphetamine; or

(c) causes or permits a child to inhale, be exposed to, have contact with, or ingest methamphetamine or be exposed to or have contact with methamphetamine paraphernalia.

(4) A parent, guardian, or other person supervising the welfare of a child less than 16 years of age may verbally or in writing request a person who is 18 years of age or older and who has no legal right of supervision or control over the child to stop contacting the child if the requester believes that the contact is not in the child's best interests. If the person continues to contact the child, the parent, guardian, or other person supervising the welfare of the child may petition or the county attorney may upon the person's request petition for an order of protection under Title 40, chapter 15. To the extent that they are consistent with this subsection, the provisions of Title 40, chapter 15, apply. A person who purposely or knowingly violates an order of protection commits the offense of endangering the welfare of children and upon conviction shall be sentenced as provided in subsection (5)(a).

(5) (a) Except as provided in subsection (5)(b), a person convicted of endangering the welfare of children shall be fined an amount not to exceed \$ 500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of endangering the welfare of children shall be fined an amount not to exceed \$ 1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

(b) A person convicted under subsection (3) is guilty of a felony and shall be imprisoned in the state prison for a term not to exceed 5 years and may be fined an amount not to exceed \$ 10,000, or both. If a child suffers serious bodily injury, the offender shall be fined an amount not to exceed \$ 25,000 or be imprisoned for a term not to exceed 10 years, or both. Prosecution or conviction of a violation of subsection (3) does not bar prosecution or conviction for any other crime committed by the offender as part of the same conduct.

(6) On the issue of whether there has been a violation of the duty of care, protection, and support, the following, in addition to all other admissible evidence, is admissible: cruel treatment; abuse; infliction of unnecessary and cruel punishment; abandonment; neglect; lack of proper medical care, clothing, shelter, and food; and evidence of past bodily injury.

(7) The court may order, in its discretion, any fine levied or any bond forfeited upon a charge of endangering the welfare of children paid to or for the benefit of the person or persons whose welfare the defendant has endangered.

#### CREDIT(S)

Enacted 94-5-607 by Laws 1973, ch. 513, § 1. Amended by Laws 1975, ch. 85, § 1; amended by Laws 1977, ch. 218, § 1; amended by Laws 1977, ch. 359, § 18; Revised Code of Montana 1947, 94-5-607; amended by Laws 1987, ch. 405, § 1; amended by Laws 1989, ch. 448, § 3; amended by Laws 1997, ch. 333, § 1; amended by Laws 2007, ch. 75, § 1.

MCA 45-5-622, MT ST 45-5-622

Statutes are current through the 2013 Session, and the 2012 general election

### **MONT. CODE ANN. § 45-5-628 (2014). CRIMINAL CHILD ENDANGERMENT**

(1) A person commits the offense of criminal child endangerment if the person purposely, knowingly, or negligently causes substantial risk of death or serious bodily injury to a child under 14 years of age by:

(a) failing to seek reasonable medical care for a child suffering from an apparent acute life-threatening condition;

(b) placing a child in the physical custody of another who the person knows has previously purposely or knowingly caused bodily injury to a child;

(c) placing a child in the physical custody of another who the person knows has previously committed an offense against the child under 45-5-502 or 45-5-503;

(d) manufacturing or distributing dangerous drugs in a place where a child is present;

(e) operating a motor vehicle under the influence of alcohol or dangerous drugs in violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-465 with a child in the vehicle; or

(f) failing to attempt to provide proper nutrition for a child, resulting in a medical diagnosis of nonorganic failure to thrive.

(2) A person may not be charged under subsection (1)(b) or (1)(c) if the person placed the child in the other person's custody pursuant to a court order.

(3) A person convicted of the offense of criminal child endangerment shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

(4) For purposes of this section, "nonorganic failure to thrive" means inadequate physical growth that is a result of insufficient nutrition and is not secondary to a diagnosed medical condition.

CREDIT(S)

Enacted by Laws 2013, ch. 304, § 1, eff. April 25, 2013.

Statutes are current through the 2013 Session

Current through End of 2013 Regular Session

## **NEBRASKA**

### **Neb. Rev. Stat. § 28-707 (2014). CHILD ABUSE; PRIVILEGES NOT AVAILABLE; PENALTIES**

(1) A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be:

(a) Placed in a situation that endangers his or her life or physical or mental health;

(b) Cruelly confined or cruelly punished;

(c) Deprived of necessary food, clothing, shelter, or care;

(d) Placed in a situation to be sexually exploited by allowing, encouraging, or forcing such minor child to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions;

(e) Placed in a situation to be sexually abused as defined in section 28-319, 28-319.01, or 28-320.01; or

(f) Placed in a situation to be a trafficking victim as defined in section 28-830.

(2) The statutory privilege between patient and physician, between client and professional counselor, and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.

(3) Child abuse is a Class I misdemeanor if the offense is committed negligently and does not result in serious bodily injury as defined in section 28-109 or death.

(4) Child abuse is a Class IIIA felony if the offense is committed knowingly and intentionally and does not result in serious bodily injury as defined in section 28-109 or death.

(5) Child abuse is a Class IIIA felony if the offense is committed negligently and results in serious bodily injury as defined in section 28-109.

(6) Child abuse is a Class III felony if the offense is committed negligently and results in the death of such child.

(7) Child abuse is a Class II felony if the offense is committed knowingly and intentionally and results in serious bodily injury as defined in such section.

(8) Child abuse is a Class IB felony if the offense is committed knowingly and intentionally and results in the death of such child.

(9) For purposes of this section, negligently refers to criminal negligence and means that a person knew or should have known of the danger involved and acted recklessly, as defined in section 28-109, with respect to the safety or health of the minor child.

#### CREDIT(S)

Laws 1977, LB 38, § 146; Laws 1982, LB 347, § 10; Laws 1993, LB 130, § 3; Laws 1993, LB 430, § 3; Laws 1994, LB 908, § 1; Laws 1996, LB 645, § 15; Laws 1997, LB 364, § 9; Laws 2006, LB 1199, § 9; Laws 2010, LB 507, § 3, eff. July 15, 2010; Laws 2012, LB 799, § 2, eff. July 19, 2012; Laws 2013, LB 255, § 1, eff. Oct. 1, 2013.

Current through End of 2013 Regular Session

## NEVADA

### NEV. REV. STAT. § 200.508 (2009). ABUSE, NEGLECT OR ENDANGERMENT OF CHILD: PENALTIES; DEFINITIONS

.....

2. A person who is responsible for the safety or welfare of a child and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(2) In all other such cases to which subparagraph (1) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a gross misdemeanor; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category C felony and shall be punished as provided in NRS 193.130,

unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

3. A person does not commit a violation of subsection 1 or 2 by virtue of the sole fact that he delivers or allows the delivery of a child to a provider of emergency services pursuant to NRS 432B.630.

4. As used in this section:

(a) "Abuse or neglect" means physical or mental injury of a nonaccidental nature, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child under the age of 18 years, as set forth in paragraph (d) and NRS 432B.070; , 432B.100; , 432B.110; , 432B.140; and 432B.150, under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

(b) "Allow" means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that the child is abused or neglected.

(c) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care, custody and control of a minor child.

(d) "Physical injury" means:

- (1) Permanent or temporary disfigurement; or
- (2) Impairment of any bodily function or organ of the body.

(e) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his normal range of performance or behavior.

#### CREDIT(S)

Added by Laws 1971, p. 772. Amended by Laws 1975, p. 1141; Laws 1977, pp. 738, 1629; Laws 1985, p. 1399; Laws 1989, pp. 866, 1510, 1512; Laws 1995, p. 1193; Laws 1997, c. 240, § 3; Laws 1997, c. 455, § 2; Laws 1999, c. 105, § 49, eff. May 11, 1999; Laws 2001, c. 258, § 1; Laws 2001, c. 276, § 14, eff. May 31, 2001; Laws 2003, c. 2, § 23, eff. March 5, 2003.

Current through the 2013 77th Regular Session and the 27th Special Session of the Nevada Legislature and technical corrections received from the Legislative Counsel Bureau (2013).

## **NEW HAMPSHIRE**

### **N.H. REV. STAT. ANN. § 639:3 (2014). ENDANGERING WELFARE OF CHILD OR INCOMPETENT**

I. A person is guilty of endangering the welfare of a child or incompetent if he knowingly endangers the welfare of a child under 18 years of age or of an incompetent person by purposely violating a duty of care, protection or support he owes to such child or incompetent, or by inducing such child or incompetent to engage in conduct that endangers his health or safety.

II. In the prosecution of any person under this section, the tattooing or branding by any person of a child under the age of 18 constitutes endangering the welfare of such child.

III. In the prosecution of any person under this section, the solicitation by any person of a child under the age of 16 to engage in sexual activity as defined by RSA 649-A:2, III for the purpose of creating a visual representation as defined in RSA 649-A:2, IV, or to engage in sexual penetration as defined by RSA 632-A:1, V, constitutes endangering the welfare of such child.

IV. A person who pursuant to the tenets of a recognized religion fails to conform to an otherwise existing duty of care or protection is not guilty of an offense under this section.

V. A person who endangers the welfare of a child or incompetent by violating paragraph III of this section is guilty of a class B felony. All other violations of this section are misdemeanors.

VI. No person acting in accordance with the provisions of RSA 132-A shall be guilty of an offense under this section.

#### HISTORY

1971, 518:1. 1983, 448:1. 2002, 195:2. 2003, 40:2, eff. June 4, 2003.

Updated with laws current through Chapter 250 of the 2014 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

## **NEW JERSEY**

### **N.J. STAT. ANN. § 2C:24-4 (2014). ENDANGERING WELFARE OF CHILDREN**

a. (1) Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who engages in sexual conduct which would impair or debauch the morals of the child is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this paragraph to a child is guilty of a crime of the third degree.

(2) Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who causes the child harm that would make the child an abused or neglected child as defined in R.S.9:6-1, R.S.9:6-3 and P.L.1974, c. 119, § 1 (C.9:6-8.21) is guilty of a crime of the second degree. Any other person who engages in conduct or who causes harm as described in this paragraph to a child is guilty of a crime of the third degree.

b. (1) As used in this subsection:

"Child" means any person under 18 years of age.

"Distribute" means to sell, or to manufacture, give, provide, lend, trade, mail, deliver, publish, circulate, disseminate, present, exhibit, display, share, advertise, offer, or make available via the Internet or by any other means, whether for pecuniary gain or not. The term also includes an agreement or attempt to distribute.

"File-sharing program" means a computer program, application, software or operating system that allows the user of a computer on which such program, application, software or operating system is installed to designate files as available for searching by and copying to one or more other computers, to transmit such designated files directly to one or more other computers, and to request the transmission of such designated files directly from one or more other computers. The term "file-sharing program" includes but is not limited to a computer program, application or software that enables a computer user to participate in a peer-to-peer network.

"Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.

"Item depicting the sexual exploitation or abuse of a child" means a photograph, film, video, an electronic, electromagnetic or digital recording, an image stored or maintained in a computer program or file or in a portion of a file, or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act.

"Peer-to-peer network" means a connection of computer systems through which files are shared directly between the systems on a network without the need of a central server.

"Prohibited sexual act" means

(a) Sexual intercourse; or

(b) Anal intercourse; or

(c) Masturbation; or

(d) Bestiality; or



(e) Sadism; or

(f) Masochism; or

(g) Fellatio; or

(h) Cunnilingus; or

(i) Nudity, if depicted for the purpose of sexual stimulation or gratification of any person who may view such depiction; or

(j) Any act of sexual penetration or sexual contact as defined in N.J.S.2C:14-1.

"Reproduction" means, but is not limited to, computer generated images.

(2) (Deleted by amendment, P.L.2001, c. 291).

(3) A person commits a crime of the first degree if he causes or permits a child to engage in a prohibited sexual act or in the simulation of such an act if the person knows, has reason to know or intends that the prohibited act may be photographed, filmed, reproduced, or reconstructed in any manner, including on the Internet, or may be part of an exhibition or performance.

(4) A person commits a crime of the second degree if he photographs or films a child in a prohibited sexual act or in the simulation of such an act or who uses any device, including a computer, to reproduce or reconstruct the image of a child in a prohibited sexual act or in the simulation of such an act.

(5)(a) A person commits a crime of the second degree if, by any means, including but not limited to the Internet, he:

(i) knowingly distributes an item depicting the sexual exploitation or abuse of a child;

(ii) knowingly possesses an item depicting the sexual exploitation or abuse of a child with the intent to distribute that item; or

(iii) knowingly stores or maintains an item depicting the sexual exploitation or abuse of a child using a file-sharing program which is designated as available for searching by or copying to one or more other computers.

In a prosecution under sub-subparagraph (iii) of this subparagraph, the State shall not be required to offer proof that an item depicting the sexual exploitation or abuse of a child had actually been searched, copied, transmitted or viewed by another user of the file-sharing program, or by any other person, and it shall be no defense that the defendant did not intend to distribute the item to another user of the file-sharing program or to any other person. Nor shall the State be required to prove that the defendant was aware that the item depicting the sexual exploitation or abuse of a child was available for searching or copying to one or more other computers, and the defendant shall be strictly liable for failing to designate the item as not available for searching or copying by one or more other computers.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person whose offense under this subparagraph involved 25 or more items depicting the sexual exploitation or abuse of a child shall be sentenced to a mandatory minimum term of imprisonment, which shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or five years, whichever is greater, during which the defendant shall be ineligible for parole.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person convicted of a second or subsequent offense under this subparagraph shall be sentenced to an extended term of imprisonment as set forth in N.J.S.2C:43- 7. For the purposes of this subparagraph, an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to paragraph (3), (4) or (5) of this subsection, or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to paragraph (3), (4) or (5) of this subsection.

For purposes of this subparagraph, the term "possess" includes receiving, viewing, or having under one's control, through any means, including the Internet.

(b) A person commits a crime of the third degree if he knowingly possesses , knowingly views , or knowingly has under his control, through any means, including the Internet, an item depicting the sexual exploitation or abuse of a child.

Notwithstanding the provisions of subsection e. of N.J.S.2C:44-1, in any instance where a person was convicted of an offense under this subparagraph that involved 100 or more items depicting the sexual exploitation or abuse of a child, the court shall impose a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that

imprisonment would be a serious injustice which overrides the need to deter such conduct by others.

Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, a person convicted of a second or subsequent offense under this subparagraph shall be sentenced to an extended term of imprisonment as set forth in N.J.S.2C:43- 7. For the purposes of this subparagraph, an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to paragraph (3), (4) or (5) of this subsection, or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to paragraph (3), (4) or (5) of this subsection.

Nothing in this subparagraph shall be construed to preclude or limit any prosecution or conviction for the offense set forth in subparagraph (a) of this paragraph.

(6) For purposes of this subsection, a person who is depicted as or presents the appearance of being under the age of 18 in any photograph, film, videotape, computer program or file, video game or any other reproduction or reconstruction shall be rebuttably presumed to be under the age of 18. If the child who is depicted as engaging in, or who is caused to engage in, a prohibited sexual act or simulation of a prohibited sexual act is under the age of 18, the actor shall be strictly liable and it shall not be a defense that the actor did not know that the child was under the age of 18, nor shall it be a defense that the actor believed that the child was 18 years of age or older, even if such a mistaken belief was reasonable.

(7) For aggregation purposes, each depiction of the sexual exploitation or abuse of a child shall be considered a separate item, and each individual act of distribution of an item depicting the sexual exploitation or abuse of a child shall be considered a separate item. For purposes of determining the number of items depicting the sexual exploitation or abuse of a child for purposes of sentencing pursuant to subparagraph (a) of paragraph (5) of this subsection, the court shall aggregate all items involved, whether the act or acts constituting the violation occurred at the same time or at different times and, with respect to distribution, whether the act or acts of distribution were to the same person or several persons or occurred at different times, provided that each individual act was committed within the applicable statute of limitations. For purposes of determining the number of items depicting the sexual exploitation or abuse of a child for purposes of sentencing pursuant to subparagraph (b) of paragraph (5) of this subsection, the court shall aggregate all items involved, whether the possession of such items occurred at the same time or at different times, provided that each individual act was committed within the applicable statute of limitations.

CREDIT(S)

L.1978, c. 95, § 2C:24-4, eff. Sept. 1, 1979. Amended by L.1979, c. 178, § 46, eff. Sept. 1, 1979; L.1983, c. 494, § 1, eff. Jan. 17, 1984; L.1992, c. 2, § 1, eff. April 2, 1992; L.1992, c. 6, § 1, eff.

May 13, 1992; L.1995, c. 109, § 1, eff. June 1, 1995; L.1998, c. 126, § 1, eff. May 1, 1999; L.2001, c. 291, § 1, eff. Dec. 28, 2001, retroactive to May 1, 1999; L.2013, c. 51, § 13, eff. July 1, 2013; L.2013, c. 136, § 1, eff. Aug. 14, 2013.

Current with laws effective through L.2014, c. 22 and J.R. No. 3.

## **NEW MEXICO**

### **N.M. STAT. ANN. § 30-6-1 (2009). ABANDONMENT OR ABUSE OF A CHILD**

A. As used in this section:

(1) "child" means a person who is less than eighteen years of age;

(2) "neglect" means that a child is without proper parental care and control of subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parents, guardian or custodian or their neglect or refusal, when able to do so, to provide them; and

(3) "negligently" refers to criminal negligence and means that a person knew or should have known of the danger involved and acted with a reckless disregard for the safety or health of the child.

.....

D. Abuse of a child consists of a person knowingly, intentionally or negligently, and without justifiable cause, causing or permitting a child to be:

(1) placed in a situation that may endanger the child's life or health;

(2) tortured, cruelly confined or cruelly punished; or

(3) exposed to the inclemency of the weather.

E. A person who commits abuse of a child that does not result in the child's death or great bodily harm is, for a first offense, guilty of a third degree felony and for second and subsequent offenses is guilty of a second degree felony. If the abuse results in great bodily harm to the child, the person is guilty of a first degree felony.

F. A person who commits negligent abuse of a child that results in the death of the child is guilty of a first degree felony.

G. A person who commits intentional abuse of a child twelve to eighteen years of age that results in the death of the child is guilty of a first degree felony.

H. A person who commits intentional abuse of a child less than twelve years of age that results in the death of the child is guilty of a first degree felony resulting in the death of a child.

I. Evidence that demonstrates that a child has been knowingly, intentionally or negligently allowed to enter or remain in a motor vehicle, building or any other premises that contains chemicals and equipment used or intended for use in the manufacture of a controlled substance shall be deemed prima facie evidence of abuse of the child.

J. Evidence that demonstrates that a child has been knowingly and intentionally exposed to the use of methamphetamine shall be deemed prima facie evidence of abuse of the child.

K. A person who leaves an infant less than ninety days old at a hospital may be prosecuted for abuse of the infant for actions of the person occurring before the infant was left at the hospital.

CREDIT(S)

L. 1973, Ch. 360, § 10; L. 1977, Ch. 131, § 1; L. 1978, Ch. 103, § 1; L. 1984, Ch. 77, § 1; L. 1984, Ch. 92, § 5; L. 1989, Ch. 351, § 1; L. 1997, Ch. 163, § 1, eff. July 1, 1997; L. 2001, Ch. 31, § 9, eff. March 14, 2001; L. 2001, Ch. 132, § 9, eff. April 2, 2001;

Current through laws of the 2nd Regular Session of the 51st Legislature (2014), effective May 21, 2014

## **NEW YORK**

### **N.Y. PENAL LAW § 260.10 (2014). ENDANGERING THE WELFARE OF A CHILD**

A person is guilty of endangering the welfare of a child when:

1. He or she knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a child less than seventeen years old or directs or authorizes such child to engage in an occupation involving a substantial risk of danger to his or her life or health; or
2. Being a parent, guardian or other person legally charged with the care or custody of a child less than eighteen years old, he or she fails or refuses to exercise reasonable diligence in the control of such child to prevent him or her from becoming an "abused child," a "neglected child," a "juvenile delinquent" or a "person in need of supervision," as those terms are defined in articles ten, three and seven of the family court act.
3. A person is not guilty of the provisions of this section when he or she engages in the conduct described in subdivision one of section 260.00 of this article: (a) with the intent to wholly abandon the child by relinquishing responsibility for and right to the care and custody of such child; (b) with the intent that the child be safe from physical injury and cared for in an appropriate manner; (c) the child is left with an appropriate person, or in a suitable location and

the person who leaves the child promptly notifies an appropriate person of the child's location; and (d) the child is not more than thirty days old.

Endangering the welfare of a child is a class A misdemeanor.

CREDIT(S)

(L.1965, c. 1030. Amended L.1967, c. 791, § 44; L.1970, c. 389, § 1; L.1970, c. 962, § 14; L.1982, c. 920, § 81; L.1990, c. 476, § 1; L.2010, c. 447, § 2, eff. Aug. 30, 2010.)

Current through L.2014, chapters 1 to 206.

## **NORTH CAROLINA**

### **N.C. GEN. STAT. § 14-318.2 (2014). CHILD ABUSE A MISDEMEANOR**

(a) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of such child, who inflicts physical injury, or who allows physical injury to be inflicted, or who creates or allows to be created a substantial risk of physical injury, upon or to such child by other than accidental means is guilty of the Class A1 misdemeanor of child abuse.

(b) The Class A1 misdemeanor of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) A parent who abandons an infant less than seven days of age pursuant to G.S. 14-322.3 shall not be prosecuted under this section for any acts or omissions related to the care of that infant.

CREDIT(S)

Added by Laws 1965, c. 472, § 1. Amended by Laws 1971, c. 710, § 6; Laws 1993, c. 539, § 223, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 14, § 13, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994; S.L. 2001-291, § 4, eff. July 19, 2001; S.L. 2008-191, § 1, eff. Dec. 1, 2008; S.L. 2009-570, § 6, eff. Aug. 28, 2009.

The statutes and Constitution are current through Chapters 1-74 of the 2014 Regular Session of the General Assembly.

### **N.C. GEN. STAT. § 14-318.4 (2014). CHILD ABUSE A FELONY**

....

(a4) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class E felony if the act or omission results in serious bodily injury to the child.

(a5) A parent or any other person providing care to or supervision of a child less than 16 years of age whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life is guilty of a Class G felony if the act or omission results in serious physical injury to the child.

(a6) For purposes of this section, a “grossly negligent omission” in providing care to or supervision of a child includes the failure to report a child as missing to law enforcement as provided in G.S. 14-318.5(b).

(b) The felony of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-322.3 may be treated as a mitigating factor in sentencing for a conviction under this section involving that infant.

(d) The following definitions apply in this section:

(1) Serious bodily injury.--Bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(2) Serious physical injury.--Physical injury that causes great pain and suffering. The term includes serious mental injury.

#### CREDIT(S)

Added by Laws 1979, c. 897, § 1. Amended by Laws 1979 (2nd Ex. Sess.), c. 1316, § 18; Laws 1981, c. 63, § 1; Laws 1981, c. 179, § 14; Laws 1983, c. 653, § 1; Laws 1983, c. 916, § 1; Laws 1985, c. 509, § 5; Laws 1985, c. 668, § 1; Laws 1993, c. 539, § 1233, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994; S.L. 1999-451, § 1, eff. Dec. 1, 1999; S.L. 2001-291, § 5, eff. July 19, 2001; S.L. 2008-191, § 2, eff. Dec. 1, 2008; S.L. 2013-35, § 1, eff. Dec. 1, 2013; S.L. 2013-52, § 3, eff. Dec. 1, 2013.

The statutes and Constitution are current through Chapters 1-74 of the 2014 Regular Session of the General Assembly.

## **NORTH DAKOTA**

### **N.D. CENT. CODE § 14-09-22 (2014). ABUSE OR NEGLECT OF CHILD – PENALTY**

1. Except as provided in subsection 2, a parent, adult family or household member, guardian, or other custodian of any child, who willfully commits any of the following offenses is guilty of a class C felony except if the victim of an offense under subdivision a is under the age of six years in which case the offense is a class B felony:

a. Inflicts, or allows to be inflicted, upon the child, bodily injury, substantial bodily injury, or serious bodily injury as defined by section 12.1-01-04 or mental injury.

b. Fails to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals.

c. Permits the child to be, or fails to exercise reasonable diligence in preventing the child from being, in a disreputable place or associating with vagrants or vicious or immoral persons.

d. Permits the child to engage in, or fails to exercise reasonable diligence in preventing the child from engaging in, an occupation forbidden by the laws of this state or an occupation injurious to the child's health or morals or the health or morals of others.

2. A person who provides care, supervision, education, or guidance for a child unaccompanied by the child's parent, adult family or household member, guardian, or custodian in exchange for money, goods, or other services and who while providing such services commits an offense under subdivision a of subsection 1 is guilty of a class B felony. Any such person who commits, allows to be committed, or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20 is subject to the penalties provided in that chapter.

CREDIT(S)

S.L. 1947, ch. 137, §§ 1, 2; S.L. 1973, ch. 120, § 10; S.L. 1975, ch. 106, § 113; S.L. 1991, ch. 511, § 1; S.L. 1999, ch. 123, § 4; S.L. 2001, ch. 155, § 1; S.L. 2011, ch. 113, § 1, eff. Aug. 1, 2011.

Current through the 2013 Regular Session of the 63rd Legislative Assembly

## **OHIO**

### **OHIO REV. CODE § 2903.15 (2014). PERMITTING CHILD ABUSE**

(A) No parent, guardian, custodian, or person having custody of a child under eighteen years of age or of a mentally or physically handicapped child under twenty-one years of age shall cause serious physical harm to the child, or the death of the child, as a proximate result of permitting the child to be abused, to be tortured, to be administered corporal punishment or other physical disciplinary measure, or to be physically restrained in a cruel manner or for a prolonged period.



(B) It is an affirmative defense to a charge under this section that the defendant did not have readily available a means to prevent the harm to the child or the death of the child and that the defendant took timely and reasonable steps to summon aid.

(C) Whoever violates this section is guilty of permitting child abuse. If the violation of this section causes serious physical harm to the child, permitting child abuse is a felony of the third degree. If the violation of this section causes the death of the child, permitting child abuse is a felony of the first degree.

CREDIT(S)

(1999 H 162, eff. 8-25-99)

Current through Files 1 to 140 and Statewide Issue 1 of the 130th GA (2013-2014).

### **OHIO REV. CODE § 2919.22 (2014). ENDANGERING CHILDREN**

(A) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support. It is not a violation of a duty of care, protection, or support under this division when the parent, guardian, custodian, or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(B) No person shall do any of the following to a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age:

(1) Abuse the child;

(2) Torture or cruelly abuse the child;

(3) Administer corporal punishment or other physical disciplinary measure, or physically restrain the child in a cruel manner or for a prolonged period, which punishment, discipline, or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child;

(4) Repeatedly administer unwarranted disciplinary measures to the child, when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child's mental health or development;

(5) Entice, coerce, permit, encourage, compel, hire, employ, use, or allow the child to act, model, or in any other way participate in, or be photographed for, the production, presentation,

dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter;

(6) Allow the child to be on the same parcel of real property and within one hundred feet of, or, in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within one hundred feet of, any act in violation of section 2925.04 or 2925.041 [2925.04.1] of the Revised Code when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the violation of section 2925.04 or 2925.041 [2925.04.1] of the Revised Code that is the basis of the violation of this division.

(C) (1) No person shall operate a vehicle, streetcar, or trackless trolley within this state in violation of division (A) of section 4511.19 of the Revised Code when one or more children under eighteen years of age are in the vehicle, streetcar, or trackless trolley. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of this division and a violation of division (A) of section 4511.19 of the Revised Code that constitutes the basis of the charge of the violation of this division. For purposes of sections 4511.191 [4511.19.1] to 4511.197 [4511.19.7] of the Revised Code and all related provisions of law, a person arrested for a violation of this division shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(2) As used in division (C)(1) of this section:

(a) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(b) "Vehicle," "streetcar," and "trackless trolley" have the same meanings as in section 4511.01 of the Revised Code.

(D) (1) Division (B)(5) of this section does not apply to any material or performance that is produced, presented, or disseminated for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.

(2) Mistake of age is not a defense to a charge under division (B)(5) of this section.

(3) In a prosecution under division (B)(5) of this section, the trier of fact may infer that an actor, model, or participant in the material or performance involved is a juvenile if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the actor, model, or participant as a juvenile.

(4) As used in this division and division (B)(5) of this section:

(a) "Material," "performance," "obscene," and "sexual activity" have the same meanings as in section 2907.01 of the Revised Code.

(b) "Nudity-oriented matter" means any material or performance that shows a minor in a state of nudity and that, taken as a whole by the average person applying contemporary community standards, appeals to prurient interest.

(c) "Sexually oriented matter" means any material or performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality.

(E) (1) Whoever violates this section is guilty of endangering children.

(2) If the offender violates division (A) or (B)(1) of this section, endangering children is one of the following, and, in the circumstances described in division (E)(2)(e) of this section, that division applies:

(a) Except as otherwise provided in division (E)(2)(b), (c), or (d) of this section, a misdemeanor of the first degree;

(b) If the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in division (E)(2)(c) or (d) of this section, a felony of the fourth degree;

(c) If the violation is a violation of division (A) of this section and results in serious physical harm to the child involved, a felony of the third degree;

(d) If the violation is a violation of division (B)(1) of this section and results in serious physical harm to the child involved, a felony of the second degree.

(e) If the violation is a felony violation of division (B)(1) of this section and the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 [2941.14.22] of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (D)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

(3) If the offender violates division (B)(2), (3), (4), or (6) of this section, except as otherwise provided in this division, endangering children is a felony of the third degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, endangering children is a felony of the second degree. If the offender violates division (B)(2), (3), or (4) of this section and the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 [2941.14.22] of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory

prison term as provided in division (D)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code. If the offender violates division (B)(6) of this section and the drug involved is methamphetamine, the court shall impose a mandatory prison term on the offender as follows:

(a) If the violation is a violation of division (B)(6) of this section that is a felony of the third degree under division (E)(3) of this section and the drug involved is methamphetamine, except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree that is not less than two years. If the violation is a violation of division (B)(6) of this section that is a felony of the third degree under division (E)(3) of this section, if the drug involved is methamphetamine, and if the offender previously has been convicted of or pleaded guilty to a violation of division (B) (6) of this section, a violation of division (A) of section 2925.04 of the Revised Code, or a violation of division (A) of section 2925.041 [2925.04.1] of the Revised Code, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree that is not less than five years.

(b) If the violation is a violation of division (B)(6) of this section that is a felony of the second degree under division (E)(3) of this section and the drug involved is methamphetamine, except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree that is not less than three years. If the violation is a violation of division (B)(6) of this section that is a felony of the second degree under division (E)(3) of this section, if the drug involved is methamphetamine, and if the offender previously has been convicted of or pleaded guilty to a violation of division (B)(6) of this section, a violation of division (A) of section 2925.04 of the Revised Code, or a violation of division (A) of section 2925.041 [2925.04.1] of the Revised Code, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree that is not less than five years.

(4) If the offender violates division (B)(5) of this section, endangering children is a felony of the second degree. If the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 [2941.14.22] of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (D)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code.

(5) If the offender violates division (C) of this section, the offender shall be punished as follows:

(a) Except as otherwise provided in division (E)(5)(b) or (c) of this section, endangering children in violation of division (C) of this section is a misdemeanor of the first degree.

(b) If the violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under this section or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as

otherwise provided in division (E)(5)(c) of this section, endangering children in violation of division (C) of this section is a felony of the fifth degree.

(c) If the violation results in serious physical harm to the child involved and if the offender previously has been convicted of a violation of division (C) of this section, section 2903.06 or 2903.08 of the Revised Code, section 2903.07 of the Revised Code as it existed prior to March 23, 2000, or section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, endangering children in violation of division (C) of this section is a felony of the fourth degree.

(d) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to division (E)(5)(a), (b), or (c) of this section or pursuant to any other provision of law and in addition to any suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege under Chapter 4506., 4509., 4510., or 4511. of the Revised Code or under any other provision of law, the court also may impose upon the offender a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code.

(e) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction imposed upon the offender pursuant to division (E)(5)(a), (b), (c), or (d) of this section or pursuant to any other provision of law for the violation of division (C) of this section, if as part of the same trial or proceeding the offender also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, the offender also shall be sentenced in accordance with section 4511.19 of the Revised Code for that violation of division (A) of section 4511.19 of the Revised Code.

(F) (1) (a) A court may require an offender to perform not more than two hundred hours of supervised community service work under the authority of an agency, subdivision, or charitable organization. The requirement shall be part of the community control sanction or sentence of the offender, and the court shall impose the community service in accordance with and subject to divisions (F)(1)(a) and (b) of this section. The court may require an offender whom it requires to perform supervised community service work as part of the offender's community control sanction or sentence to pay the court a reasonable fee to cover the costs of the offender's participation in the work, including, but not limited to, the costs of procuring a policy or policies of liability insurance to cover the period during which the offender will perform the work. If the court requires the offender to perform supervised community service work as part of the offender's community control sanction or sentence, the court shall do so in accordance with the following limitations and criteria:

(i) The court shall require that the community service work be performed after completion of the term of imprisonment or jail term imposed upon the offender for the violation of division (C) of this section, if applicable.

(ii) The supervised community service work shall be subject to the limitations set forth in divisions (B)(1), (2), and (3) of section 2951.02 of the Revised Code.

(iii) The community service work shall be supervised in the manner described in division (B)(4) of section 2951.02 of the Revised Code by an official or person with the qualifications described in that division. The official or person periodically shall report in writing to the court concerning the conduct of the offender in performing the work.

(iv) The court shall inform the offender in writing that if the offender does not adequately perform, as determined by the court, all of the required community service work, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of division (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in sections 2949.08 and 2967.191 [2967.19.1] of the Revised Code, and that, if the court orders that the offender be so committed, the court is authorized, but not required, to grant the offender credit upon the period of the commitment for the community service work that the offender adequately performed.

(b) If a court, pursuant to division (F)(1)(a) of this section, orders an offender to perform community service work as part of the offender's community control sanction or sentence and if the offender does not adequately perform all of the required community service work, as determined by the court, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of division (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in sections 2949.08 and 2967.191 [2967.19.1] of the Revised Code. The court may order that a person committed pursuant to this division shall receive hour-for-hour credit upon the period of the commitment for the community service work that the offender adequately performed. No commitment pursuant to this division shall exceed the period of the term of imprisonment that the sentencing court could have imposed upon the offender for the violation of division (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under that sentence or term and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in sections 2949.08 and 2967.191 [2967.19.1] of the Revised Code.

(2) Division (F)(1) of this section does not limit or affect the authority of the court to suspend the sentence imposed upon a misdemeanor offender and place the offender under a community control sanction pursuant to section 2929.25 of the Revised Code, to require a misdemeanor or felony offender to perform supervised community service work in accordance

with division (B) of section 2951.02 of the Revised Code, or to place a felony offender under a community control sanction.

(G) (1) If a court suspends an offender's driver's or commercial driver's license or permit or nonresident operating privilege under division (E)(5)(d) of this section, the period of the suspension shall be consecutive to, and commence after, the period of suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege that is imposed under Chapter 4506., 4509., 4510., or 4511. of the Revised Code or under any other provision of law in relation to the violation of division (C) of this section that is the basis of the suspension under division (E)(5)(d) of this section or in relation to the violation of division (A) of section 4511.19 of the Revised Code that is the basis for that violation of division (C) of this section.

(2) An offender is not entitled to request, and the court shall not grant to the offender, limited driving privileges if the offender's license, permit, or privilege has been suspended under division (E)(5)(d) of this section and the offender, within the preceding six years, has been convicted of or pleaded guilty to three or more violations of one or more of the following:

(a) Division (C) of this section;

(b) Any equivalent offense, as defined in section 4511.181 [4511.18.1] of the Revised Code.

(H) (1) If a person violates division (C) of this section and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of division (C) of this section for each of the children, but the court may sentence the offender for only one of the violations.

(2) (a) If a person is convicted of or pleads guilty to a violation of division (C) of this section but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, both of the following apply:

(i) For purposes of the provisions of section 4511.19 of the Revised Code that set forth the penalties and sanctions for a violation of division (A) of section 4511.19 of the Revised Code, the conviction of or plea of guilty to the violation of division (C) of this section shall not constitute a violation of division (A) of section 4511.19 of the Revised Code;

(ii) For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code and that is not described in division (H)(2)(a)(i) of this section, the conviction of or plea of guilty to the violation of division (C) of this section shall constitute a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code.

(b) If a person is convicted of or pleads guilty to a violation of division (C) of this section and the person also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the

violation of division (C) of this section, the conviction of or plea of guilty to the violation of division (C) of this section shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code, a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code.

(l) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code;

(2) "Limited driving privileges" has the same meaning as in section 4501.01 of the Revised Code.

(3) "Methamphetamine" has the same meaning as in section 2925.01 of the Revised Code.

CREDIT(S)

(2011 H 86, eff. 9-30-11; 2008 H 280, eff. 4-7-09; 2006 S 8, eff. 8-17-06; 2006 S 53, eff. 5-17-06; 2004 S 58, eff. 8-11-04; 2002 H 490, eff. 1-1-04; 2002 S 123, eff. 1-1-04; 2000 S 180, eff. 3-22-01; 1999 S 107, eff. 3-23-00; 1999 H 162, eff. 8-25-99; 1997 S 60, eff. 10-21-97; 1996 S 269, § 8, eff. 5-15-97; 1996 S 269, § 1, eff. 7-1-96; 1996 H 353, § 4, eff. 5-15-97; 1996 H 353, § 1, eff. 9-17-96; 1995 H 167, eff. 5-15-97; 1995 S 2, eff. 7-1-96; 1994 H 236, eff. 9-29-94; 1988 H 51, eff. 3-17-89; 1985 H 349; 1984 S 321, H 44; 1977 S 243; 1972 H 511)

Current through Files 1 to 140 and Statewide Issue 1 of the 130th GA (2013-2014).

## OKLAHOMA

### **OKLA. STAT. TIT. 21, §852.1 (2009). CHILD ENDANGERMENT – KNOWINGLY PERMITTING PHYSICAL OR SEXUAL ABUSE – GOOD FAITH RELIANCE ON SPIRITUAL HEALING – PENALTIES**

A. A person who is the parent, guardian, or person having custody or control over a child as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, commits child endangerment when the person:

1. Knowingly permits physical or sexual abuse of a child;

2. Knowingly permits a child to be present at a location where a controlled dangerous substance is being manufactured or attempted to be manufactured as defined in Section 2-101 of Title 63 of the Oklahoma Statutes;



3. Knowingly permits a child to be present in a vehicle when the person knows or should have known that the operator of the vehicle is impaired by or is under the influence of alcohol or another intoxicating substance; or

4. Is the driver, operator, or person in physical control of a vehicle in violation of Section 11-902 of Title 47 of the Oklahoma Statutes while transporting or having in the vehicle such child or children.

However, it is an affirmative defense to this paragraph if the person had a reasonable apprehension that any action to stop the physical or sexual abuse or deny permission for the child to be in the vehicle with an intoxicated person would result in substantial bodily harm to the person or the child.

B. The provisions of this section shall not apply to any parent, guardian or other person having custody or control of a child for the sole reason that the parent, guardian or other person in good faith selects and depends upon spiritual means or prayer for the treatment or cure of disease or remedial care for such child. This subsection shall in no way limit or modify the protections afforded said child in Section 852 of this title or Section 1-4-904 of Title 10A of the Oklahoma Statutes.

C. Any person convicted of violating any provision of this section shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not more than four (4) years, or by a fine not exceeding Five Thousand Dollars (\$ 5,000.00), or by both such fine and imprisonment.

#### CREDIT(S)

Laws 1990, c. 165, § 2, eff. July 1, 1990; Laws 1997, c. 133, § 252, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 156, eff. July 1, 1999; Laws 2001, c. 225, § 6, eff. July 1, 2001; Laws 2009, c. 143, § 1, eff. July 1, 2009; Laws 2009, c. 234, § 122, eff. July 1, 2009; Laws 2011, c. 350, § 2, eff. Nov. 1, 2011.

21 Okl. St. Ann. § 852.1, OK ST T. 21 § 852.1  
Current with chapters of the Second Regular Session of the 54th  
Legislature (2014) effective July 1, 2014.

#### **OKLA. STAT. TIT. 21, § 843.5 (2014). CHILD ABUSE--CHILD NEGLECT--CHILD SEXUAL ABUSE--CHILD SEXUAL EXPLOITATION--ENABLING--PENALTIES**

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Section 843.5 A. Any parent or other person who shall willfully or maliciously engage in child abuse shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county

jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection, “child abuse” means the willful or malicious harm or threatened harm or failure to protect from harm or threatened harm to the health, safety, or welfare of a child under eighteen (18) years of age by another, or the act of willfully or maliciously injuring, torturing or maiming a child under eighteen (18) years of age by another.

B. Any parent or other person who shall willfully or maliciously engage in enabling child abuse shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) or both such fine and imprisonment. As used in this subsection, “enabling child abuse” means the causing, procuring or permitting of a willful or malicious act of harm or threatened harm or failure to protect from harm or threatened harm to the health, safety, or welfare of a child under eighteen (18) years of age by another. As used in this subsection, “permit” means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of abuse as proscribed by this subsection.

C. Any parent or other person who shall willfully or maliciously engage in child neglect shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection, “child neglect” means the willful or malicious neglect, as defined by paragraph 47 of Section 1-1-105 of Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by another.

D. Any parent or other person who shall willfully or maliciously engage in enabling child neglect shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection, “enabling child neglect” means the causing, procuring or permitting of a willful or malicious act of child neglect, as defined by paragraph 47 of Section 1-1-105 of Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by another. As used in this subsection, “permit” means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of neglect as proscribed by this subsection.

E. Any parent or other person who shall willfully or maliciously engage in child sexual abuse shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding

one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment, except as provided in Section 51.1a of this title or as otherwise provided in subsection F of this section for a child victim under twelve (12) years of age. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. As used in this section, "child sexual abuse" means the willful or malicious sexual abuse, which includes but is not limited to rape, incest, and lewd or indecent acts or proposals, of a child under eighteen (18) years of age by another.

F. Any parent or other person who shall willfully or maliciously engage in sexual abuse to a child under twelve (12) years of age shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years nor more than life imprisonment, and by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00).

G. Any parent or other person who shall willfully or maliciously engage in enabling child sexual abuse shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child sexual abuse" means the causing, procuring or permitting of a willful or malicious act of child sexual abuse, which includes but is not limited to rape, incest, and lewd or indecent acts or proposals, of a child under the age of eighteen (18) by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual abuse as proscribed by this subsection.

H. Any parent or other person who shall willfully or maliciously engage in child sexual exploitation shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment except as provided in subsection I of this section for a child victim under twelve (12) years of age. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. As used in this subsection, "child sexual exploitation"

means the willful or malicious sexual exploitation, which includes but is not limited to allowing, permitting, or encouraging a child under eighteen (18) years of age to engage in prostitution or allowing, permitting, encouraging or engaging in the lewd, obscene or pornographic photographing, filming, or depicting of a child under eighteen (18) years of age by another.

I. Any parent or other person who shall willfully or maliciously engage in sexual exploitation of a child under twelve (12) years of age shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years nor more than life imprisonment, and by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00).

J. Any parent or other person who shall willfully or maliciously engage in enabling child sexual exploitation shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child sexual exploitation" means the causing, procuring or permitting of a willful or malicious act of child sexual exploitation, which includes but is not limited to allowing, permitting, or encouraging a child under eighteen (18) years of age to engage in prostitution or allowing, permitting, encouraging or engaging in the lewd, obscene or pornographic photographing, filming, or depicting of a child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual exploitation as proscribed by this subsection.

K. Notwithstanding any other provision of law, any parent or other person convicted of forcible anal or oral sodomy, rape, rape by instrumentation, or lewd molestation of a child under fourteen (14) years of age subsequent to a previous conviction for any offense of forcible anal or oral sodomy, rape, rape by instrumentation, or lewd molestation of a child under fourteen (14) years of age shall be punished by death or by imprisonment for life without parole.

L. Provided, however, that nothing contained in this section shall prohibit any parent or guardian from using reasonable and ordinary force pursuant to Section 844 of this title.

#### CREDIT(S)

Laws 1963, c. 53, § 1, emerg. eff. May 8, 1963; Laws 1975, c. 250, § 2, emerg. eff. June 2, 1975; Laws 1977, c. 172, § 1, eff. Oct. 1, 1977; Laws 1982, c. 7, § 1, operative Oct. 1, 1982; Laws 1989, c. 348, § 12, eff. Nov. 1, 1989; Laws 1990, c. 224, § 5, eff. Sept. 1, 1990. Renumbered from Title 21, § 843 and amended by Laws 1995, c. 353, §§ 15, 20, eff. Nov. 1, 1995. Laws 1996, c. 200, § 15, eff. Nov. 1, 1996; Laws 1997, c. 133, § 127, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, §

57, eff. July 1, 1999; Laws 2000, c. 291, § 1, eff. Nov. 1, 2000; Laws 2002, c. 455, § 7, emerg. eff. June 5, 2002; Laws 2006, c. 326, § 1, eff. July 1, 2006; Laws 2007, c. 325, § 1, eff. Nov. 1, 2007; Laws 2008, c. 3, § 5, emerg. eff. Feb. 28, 2008. Renumbered from Title 10, § 7115 by Laws 2009, c. 233, § 207, emerg. eff. May 21, 2009; Laws 2010, c. 278, § 18, eff. Nov. 1, 2010; Laws 2014, c. 240, § 1, emerg. eff. May 9, 2014.

Current with chapters of the Second Regular Session of the 54th Legislature (2014) effective July 1, 2014.

## OREGON

### **Or. Rev. Stat. § 163.575 (2014). ENDANGERING THE WELFARE OF A MINOR**

163.575. Endangering the welfare of a minor

<Text subject to final change by the Oregon Office of the Legislative Counsel.>

(1) A person commits the offense of endangering the welfare of a minor if the person knowingly:

(a) Induces, causes or permits an unmarried person under 18 years of age to witness an act of sexual conduct or sadomasochistic abuse as defined by ORS 167.060;

(b) Permits a person under 18 years of age to enter or remain in a place where unlawful activity involving controlled substances is maintained or conducted;

(c) Induces, causes or permits a person under 18 years of age to participate in gambling as defined by ORS 167.117;

(d) Distributes, sells, or causes to be sold, tobacco in any form to a person under 18 years of age;  
or

(e) Sells to a person under 18 years of age any device in which tobacco, marijuana, cocaine or any controlled substance, as defined in ORS 475.005, is burned and the principal design and use of which is directly or indirectly to deliver tobacco smoke, marijuana smoke, cocaine smoke or smoke from any controlled substance into the human body including but not limited to:

(A) Pipes, water pipes, hookahs, wooden pipes, carburetor pipes, electric pipes, air driven pipes, corncob pipes, meerscham pipes and ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;

(B) Carburetion tubes and devices, including carburetion masks;

(C) Bongs;

- (D) Chillums;
- (E) Ice pipes or chillers;
- (F) Cigarette rolling papers and rolling machines; and
- (G) Cocaine free basing kits.

(2) Endangering the welfare of a minor by violation of subsection (1)(a), (b) or (c) of this section, or by violation of subsection (1)(e) of this section involving other than a device for smoking tobacco, is a Class A misdemeanor.

(3) Endangering the welfare of a minor by violation of subsection (1)(d) of this section is a Class A violation.

(4) Endangering the welfare of a minor by violation of subsection (1)(e) of this section involving a device for smoking tobacco is a Class A violation.

#### CREDIT(S)

Laws 1971, c. 743, § 177; Laws 1973, c. 827, § 20; Laws 1979, c. 744, § 8; Laws 1981, c. 838, § 1; Laws 1983, c. 740, § 31; Laws 1991, c. 970, § 5; Laws 1995, c. 79, § 52; Laws 1999, c. 1051, § 153; Laws 2011, c. 597, § 79, eff. July 1, 2011, operative Jan. 1, 2012; Laws 2014, c. 20, § 1, eff. March 3, 2014.

Current with 2014 Reg. Sess. legislation effective through July 1, 2014.  
Revisions to Acts made by the Oregon Reviser were unavailable at the time of publication.

## **PENNSYLVANIA**

### **18 PA. CONS. STAT. ANN. § 4304 (2014). ENDANGERING WELFARE OF CHILDREN**

#### (a) OFFENSE DEFINED.--

(1) A parent, guardian or other person supervising the welfare of a child under 18 years of age, or a person that employs or supervises such a person, commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection or support.

(2) A person commits an offense if the person, in an official capacity, prevents or interferes with the making of a report of suspected child abuse under 23 Pa.C.S. Ch. 63 (relating to child protective services).

(3) As used in this subsection, the term "person supervising the welfare of a child" means a person other than a parent or guardian that provides care, education, training or control of a child.

(b) GRADING.-- An offense under this section constitutes a misdemeanor of the first degree. However, where there is a course of conduct of endangering the welfare of a child, the offense constitutes a felony of the third degree.

CREDIT(S)

1972, Dec. 6, P.L. 1482, No. 334, § 1, effective June 6, 1973. Amended 1988, Dec. 19, P.L. 1275, No. 158, § 1, effective in 60 days; 1995, July 6, P.L. 251, No. 31, § 1, effective in 60 days; 2006, Nov. 29, P.L. 1581, No. 179, § 1, effective in 60 days [Jan. 29, 2007].

Current through 2014 Regular Session Acts 1 to 130

## **RHODE ISLAND**

### **R.I. GEN. LAWS § 11-9-5 (2014). CRUELTY TO OR NEGLECT OF CHILD**

(a) Every person having the custody or control of any child under the age of eighteen (18) years who shall abandon that child, or who shall treat the child with gross or habitual cruelty, or who shall wrongfully cause or permit that child to be an habitual sufferer for want of food, clothing, proper care, or oversight, or who shall use or permit the use of that child for any wanton, cruel, or improper purpose, or who shall compel, cause, or permit that child to do any wanton or wrongful act, or who shall cause or permit the home of that child to be the resort of lewd, drunken, wanton, or dissolute persons, or who by reason of neglect, cruelty, drunkenness, or depravity, shall render the home of that child a place in which it is unfit for that child to live, or who shall neglect or refuse to pay the reasonable charges for the support of that child, whenever the child shall be placed by him or her in the custody of, or be assigned by any court to, any individual, association, or corporation, shall be guilty of a felony and shall for every such offense be imprisoned for not less than one year nor more than three (3) years, or be fined not exceeding one thousand dollars (\$ 1,000), or both, and the child may be proceeded against as a neglected child under the provisions of chapter 1 of title 14.

(b) In addition to any penalty provided in this section, any person convicted or placed on probation for this offense may be required to receive psychosociological counseling in child growth, care and development as a part of that sentence or probation. For purposes of this section, and in accordance with § 40-11-15, a parent or guardian practicing his or her religious beliefs which differ from general community standards who does not provide specified medical treatment for a child shall not, for that reason alone, be considered an abusive or negligent parent or guardian; provided, the provisions of this section shall not: (1) exempt a parent or guardian from having committed the offense of cruelty or neglect if the child is harmed under the provisions of (a) above; (2) exempt the department from the provisions of § 40-11-5; or (3)

prohibit the department from filing a petition, pursuant to the provisions of § 40-11-15, for medical services for a child, where his or her health requires it.

CREDIT(S)

P.L. 1910, ch. 550, § 1; P.L. 1922, ch. 2214, § 1; P.L. 1926, ch. 844, § 1; P.L. 1977, ch. 128, § 1; P.L. 1979, ch. 129, § 1; P.L. 1996, ch. 155, § 1; P.L. 1998, ch. 439, § 1; P.L. 2004, ch. 270, § 2; P.L. 2004, ch. 599, § 2.

The statutes and Constitution are current through Chapter 104 of the January 2014 session

## **SOUTH CAROLINA**

### **S.C. CODE ANN. § 63-5-70 (2014). UNLAWFUL CONDUCT TOWARD A CHILD.**

(A) It is unlawful for a person who has charge or custody of a child, or who is the parent or guardian of a child, or who is responsible for the welfare of a child as defined in Section 63-7-20 to:

- (1) place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety;
- (2) do or cause to be done unlawfully or maliciously any bodily harm to the child so that the life or health of the child is endangered or likely to be endangered; or
- (3) wilfully abandon the child.

(B) A person who violates subsection (A) is guilty of a felony and for each offense, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.

CREDIT(S)

2008 Act No. 361, § 2. Code 1976 § 63-5-70, SC ST § 63-5-70

Current through End of 2013 Reg. Sess.

## **SOUTH DAKOTA**

### **S.D. CODIFIED LAWS § 26-10-30 (2009). PARENT, GUARDIAN, OR CUSTODIAN KNOWINGLY PERMITTING PHYSICAL OR SEXUAL ABUSE OF A CHILD AS A FELONY – AFFIRMATIVE DEFENSE**



It is a Class 6 felony for any parent, guardian, or custodian to knowingly permit physical or sexual abuse of a child.

It is an affirmative defense, to be proven by clear and convincing evidence, to prosecution under this section if, at the time of the offense, there was a reasonable belief that acting to stop or to prevent the abuse would result in substantial bodily harm to the defendant or the child in retaliation.

CREDIT(S)

Source: SL 2006, ch 146, § 1.

Current through the 2014 Regular Session and Supreme Court Rule 14-10

**S.D. CODIFIED LAWS § 26-10-31 (2009). KNOWINGLY CAUSING A CHILD TO BE PRESENT WHERE ANY PERSON IS USING, DISTRIBUTING, OR MANUFACTURING METHAMPHETAMINES AS A MISDEMEANOR**

It is a Class 1 misdemeanor for any person to knowingly cause a child to be present where any person is using, distributing, or manufacturing methamphetamines.

CREDIT(S)

Source: SL 2006, ch 146, § 1.

Current through the 2014 Regular Session and Supreme Court Rule 14-10

## **TENNESSEE**

**TENN. CODE ANN. § 39-15-401 (2014). CHILD ABUSE AND CHILD NEGLECT OR ENDANGERMENT**

(a) A person commits the offense of aggravated child abuse, aggravated child neglect or aggravated child endangerment, who commits child abuse, as defined in § 39-15-401(a); child neglect, as defined in § 39-15-401(b); or child endangerment, as defined in § 39-15-401(c) and:

(1) The act of abuse, neglect or endangerment results in serious bodily injury to the child;

(2) A deadly weapon, dangerous instrumentality, controlled substance or controlled substance analogue is used to accomplish the act of abuse, neglect or endangerment;

(3) The act of abuse, neglect or endangerment was especially heinous, atrocious or cruel, or involved the infliction of torture to the victim; or

(4) The act of abuse, neglect or endangerment results from the knowing exposure of a child to the initiation of a process intended to result in the manufacture of methamphetamine as described in § 39-17-435.

(b) A violation of this section is a Class B felony; provided, however, that, if the abused, neglected or endangered child is eight (8) years of age or less, or is vulnerable because the victim is mentally defective, mentally incapacitated or suffers from a physical disability, the penalty is a Class A felony.

(c) Nothing in this part shall be construed to mean a child is abused, neglected, or endangered, or abused, neglected or endangered in an aggravated manner, for the sole reason the child is being provided treatment by spiritual means through prayer alone, in accordance with the tenets or practices of a recognized church or religious denomination by a duly accredited practitioner of the recognized church or religious denomination, in lieu of medical or surgical treatment.

(d) "Serious bodily injury to the child" includes, but is not limited to, second- or third-degree burns, a fracture of any bone, a concussion, subdural or subarachnoid bleeding, retinal hemorrhage, cerebral edema, brain contusion, injuries to the skin that involve severe bruising or the likelihood of permanent or protracted disfigurement, including those sustained by whipping children with objects.

(e) A "dangerous instrumentality" is any item that, in the manner of its use or intended use as applied to a child, is capable of producing serious bodily injury to a child, as serious bodily injury to a child is defined in this section.

(f) This section shall be known and may be cited as "Haley's Law".

(g) The court may, in addition to any other punishment otherwise authorized by law, order a person convicted of aggravated child abuse to refrain from having any contact with the victim of the offense, including, but not limited to, attempted contact through Internet services or social networking web sites; provided, that the person has no parental rights to such victim at the time of the court's order.

CREDIT(S)

1989 Pub.Acts, c. 591, § 1; 1994 Pub.Acts, c. 978, § 1, eff. July 1, 1994; 1996 Pub.Acts, c. 962, § 1, eff. July 1, 1996; 1998 Pub.Acts, c. 1040, § 2, eff. May 18, 1998; 2005 Pub.Acts, c. 487, § 1, eff. July 1, 2005; 2006 Pub.Acts, c. 939, § 1, eff. June 20, 2006; 2008 Pub.Acts, c. 1024, § 1, eff. July

1, 2008; 2009 Pub.Acts, c. 335, § 2, eff. July 1, 2009; 2009 Pub.Acts, c. 418, § 1, eff. July 1, 2009; 2009 Pub.Acts, c. 585, § 1; 2011 Pub.Acts, c. 313, § 1, eff. July 1, 2011.

Current with laws from the 2014 Second Reg. Sess., eff. through June 30, 2014

**TENN. CODE ANN. § 39-15-402 (2014). AGGRAVATED CHILD ABUSE AND NEGLECT;  
AGGRAVATED CHILD ENDANGERMENT**

(a) A person commits the offense of aggravated child abuse, aggravated child neglect or aggravated child endangerment, who commits child abuse, as defined in § 39-15-401(a); child neglect, as defined in § 39-15-401(b); or child endangerment, as defined in § 39-15-401(c) and:

(1) The act of abuse, neglect or endangerment results in serious bodily injury to the child;

(2) A deadly weapon, dangerous instrumentality, controlled substance or controlled substance analogue is used to accomplish the act of abuse, neglect or endangerment;

(3) The act of abuse, neglect or endangerment was especially heinous, atrocious or cruel, or involved the infliction of torture to the victim; or

(4) The act of abuse, neglect or endangerment results from the knowing exposure of a child to the initiation of a process intended to result in the manufacture of methamphetamine as described in § 39-17-435.

(b) A violation of this section is a Class B felony; provided, however, that, if the abused, neglected or endangered child is eight (8) years of age or less, or is vulnerable because the victim is mentally defective, mentally incapacitated or suffers from a physical disability, the penalty is a Class A felony.

(c) Nothing in this part shall be construed to mean a child is abused, neglected, or endangered, or abused, neglected or endangered in an aggravated manner, for the sole reason the child is being provided treatment by spiritual means through prayer alone, in accordance with the tenets or practices of a recognized church or religious denomination by a duly accredited practitioner of the recognized church or religious denomination, in lieu of medical or surgical treatment.

(d) "Serious bodily injury to the child" includes, but is not limited to, second- or third-degree burns, a fracture of any bone, a concussion, subdural or subarachnoid bleeding, retinal

hemorrhage, cerebral edema, brain contusion, injuries to the skin that involve severe bruising or the likelihood of permanent or protracted disfigurement, including those sustained by whipping children with objects.

(e) A "dangerous instrumentality" is any item that, in the manner of its use or intended use as applied to a child, is capable of producing serious bodily injury to a child, as serious bodily injury to a child is defined in this section.

(f) This section shall be known and may be cited as "Haley's Law".

(g) The court may, in addition to any other punishment otherwise authorized by law, order a person convicted of aggravated child abuse to refrain from having any contact with the victim of the offense, including, but not limited to, attempted contact through Internet services or social networking web sites; provided, that the person has no parental rights to such victim at the time of the court's order.

#### CREDIT(S)

1989 Pub.Acts, c. 591, § 1; 1994 Pub.Acts, c. 978, § 1, eff. July 1, 1994; 1996 Pub.Acts, c. 962, § 1, eff. July 1, 1996; 1998 Pub.Acts, c. 1040, § 2, eff. May 18, 1998; 2005 Pub.Acts, c. 487, § 1, eff. July 1, 2005; 2006 Pub.Acts, c. 939, § 1, eff. June 20, 2006; 2008 Pub.Acts, c. 1024, § 1, eff. July 1, 2008; 2009 Pub.Acts, c. 335, § 2, eff. July 1, 2009; 2009 Pub.Acts, c. 418, § 1, eff. July 1, 2009; 2009 Pub.Acts, c. 585, § 1; 2011 Pub.Acts, c. 313, § 1, eff. July 1, 2011.

Current with laws from the 2014 Second Reg. Sess., eff. through June 30, 2014

## TEXAS

### **TEX. PENAL CODE ANN. § 22.041 (2014). ABANDONING OR ENDANGERING CHILD**

(a) In this section, "abandon" means to leave a child in any place without providing reasonable and necessary care for the child, under circumstances under which no reasonable, similarly situated adult would leave a child of that age and ability.

(b) A person commits an offense if, having custody, care, or control of a child younger than 15 years, he intentionally abandons the child in any place under circumstances that expose the child to an unreasonable risk of harm.

(c) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or omission, engages in conduct that places a child younger than 15 years in imminent danger of death, bodily injury, or physical or mental impairment.

(c-1) For purposes of Subsection (c), it is presumed that a person engaged in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment if:

(1) the person manufactured, possessed, or in any way introduced into the body of any person the controlled substance methamphetamine in the presence of the child;

(2) the person's conduct related to the proximity or accessibility of the controlled substance methamphetamine to the child and an analysis of a specimen of the child's blood, urine, or other bodily substance indicates the presence of methamphetamine in the child's body; or

(3) the person injected, ingested, inhaled, or otherwise introduced a controlled substance listed in Penalty Group 1, Section 481.102, Health and Safety Code, into the human body when the person was not in lawful possession of the substance as defined by Section 481.002(24) of that code.

(d) Except as provided by Subsection (e), an offense under Subsection (b) is:

(1) a state jail felony if the actor abandoned the child with intent to return for the child; or

(2) a felony of the third degree if the actor abandoned the child without intent to return for the child.

(e) An offense under Subsection (b) is a felony of the second degree if the actor abandons the child under circumstances that a reasonable person would believe would place the child in imminent danger of death, bodily injury, or physical or mental impairment.

(f) An offense under Subsection (c) is a state jail felony.

(g) It is a defense to prosecution under Subsection (c) that the act or omission enables the child to practice for or participate in an organized athletic event and that appropriate safety equipment and procedures are employed in the event.

(h) It is an exception to the application of this section that the actor voluntarily delivered the child to a designated emergency infant care provider under Section 262.302, Family Code.

#### CREDIT(S)

Added by Acts 1985, 69th Leg., ch. 791, § 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 904, § 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 687, § 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1087, § 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 809, § 7, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 282, § 10, eff. Aug. 1, 2005; Acts 2007, 80th Leg., ch. 840, § 2, eff. Sept. 1, 2007.

## UTAH

## VERMONT

### **Vt. STAT. ANN. TIT. 13, § 1304 (2014). CRUELTY TO CHILDREN UNDER 10 BY ONE OVER 16**

A person over the age of 16 years, having the custody, charge or care of a child under 10 years of age, who wilfully assaults, ill treats, neglects or abandons or exposes such child, or causes or procures such child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner to cause such child unnecessary suffering, or to endanger his or her health, shall be imprisoned not more than two years or fined not more than \$ 500.00, or both.

#### CREDIT(S)

1971, Adj. Sess., No. 199, § 15.

The statutes are current through laws No. 90 to 101, 103, 107, 108, 110, 111, 116, and 192 of the Adjourned Session of the 2013-2014 Vermont General Assembly (2014).

### **Vt. STAT. ANN. TIT. 13, § 1305 (2014). CRUELTY BY PERSON HAVING CUSTODY OF ANOTHER**

A person having the custody, charge, care or control of another person, who inflicts unnecessary cruelty upon such person, or unnecessarily and cruelly fails to provide such person with proper food, drink, shelter or protection from the weather, or unnecessarily and cruelly neglects to properly care for such person, shall be imprisoned not more than one year or fined not more than \$ 200.00, or both.

#### CREDIT(S)

1971, Adj. Sess., No. 199, § 15.

The statutes are current through laws No. 90 to 101, 103, 107, 108, 110, 111, 116, and 192 of the Adjourned Session of the 2013-2014 Vermont General Assembly (2014).

# **VIRGINIA**

## **Va. Code Ann. § 18.2-371.1 (2014). ABUSE AND NEGLECT OF CHILDREN; PENALTY; ABANDONED INFANT**

A. Any parent, guardian, or other person responsible for the care of a child under the age of 18 who by willful act or omission or refusal to provide any necessary care for the child's health causes or permits serious injury to the life or health of such child shall be guilty of a Class 4 felony. For purposes of this subsection, "serious injury" shall include but not be limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, (vi) forced ingestion of dangerous substances, or (vii) life-threatening internal injuries.

B. 1. Any parent, guardian, or other person responsible for the care of a child under the age of 18 whose willful act or omission in the care of such child was so gross, wanton and culpable as to show a reckless disregard for human life shall be guilty of a Class 6 felony.

2. If a prosecution under this subsection is based solely on the accused parent having left the child at a hospital or rescue squad, it shall be an affirmative defense to prosecution of a parent under this subsection that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within the first 14 days of the child's life. In order for the affirmative defense to apply, the child shall be delivered in a manner reasonably calculated to ensure the child's safety.

C. Any parent, guardian or other person having care, custody, or control of a minor child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall not, for that reason alone, be considered in violation of this section.

### CREDIT(S)

Acts 1975, c. 14; Acts 1975, c. 15; Acts 1988, c. 228; Acts 1990, c. 638; Acts 1993, c. 628; Acts 2003, c. 816; Acts 2003, c. 822; Acts 2006, c. 935.

Current through the End of the 2014 Reg. Sess. and the End of the 2014 Sp. S. I

## **VA. CODE § 40.1-103 (2014). CRUELTY AND INJURIES TO CHILDREN; PENALTY; ABANDONED INFANT**

A. It shall be unlawful for any person employing or having the custody of any child willfully or negligently to cause or permit the life of such child to be endangered or the health of such child to be injured, or willfully or negligently to cause or permit such child to be placed in a situation that its life, health or morals may be endangered, or to cause or permit such child to be overworked, tortured, tormented, mutilated, beaten or cruelly treated. Any person violating this section shall be guilty of a Class 6 felony.

B. If a prosecution under this section is based solely on the accused parent having left the child at a hospital or rescue squad, it shall be an affirmative defense to prosecution of a parent under this section that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within the first 14 days of the child's life. In order for the affirmative defense to apply, the child shall be delivered in a manner reasonably calculated to ensure the child's safety.  
CREDIT(S)

Acts 1970, c. 321; Acts 1991, c. 511; Acts 2003, c. 816; Acts 2003, c. 822; Acts 2006, c. 935.  
Current through the End of the 2014 Reg. Sess. and the End of the 2014 Sp. S. I

## WASHINGTON

### **WASH. REV. CODE ANN. § 9A.42.035 (2014). CRIMINAL MISTREATMENT IN THE THIRD DEGREE**

(1) A person is guilty of the crime of criminal mistreatment in the third degree if the person is the parent of a child, is a person entrusted with the physical custody of a child or other dependent person, is a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or is a person employed to provide to the child or dependent person the basic necessities of life, and either:

(a) With criminal negligence, creates an imminent and substantial risk of substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life; or

(b) With criminal negligence, causes substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life.

(2) For purposes of this section, "a person who has assumed the responsibility to provide to a dependent person the basic necessities of life" means a person other than: (a) A government agency that regularly provides assistance or services to dependent persons, including but not limited to the department of social and health services; or (b) a good samaritan as defined in RCW 9A.42.010.

(3) Criminal mistreatment in the third degree is a gross misdemeanor.

CREDIT(S)

2006 c 228 § 3, eff. June 7, 2006; 1997 c 392 § 511; 1986 c 250 § 3.

Current with 2014 Legislation effective on June 12, 2014, the General Effective Date for the 2014 Regular Session, and other 2014 Legislation effective through October 1, 2014



# WEST VIRGINIA

## W. VA. CODE ANN. § 61-8D-1 (2014). DEFINITIONS

In this article, unless a different meaning plainly is required:

....

(6) "Neglect" means the unreasonable failure by a parent, guardian, or any person voluntarily accepting a supervisory role towards a minor child to exercise a minimum degree of care to assure said minor child's physical safety or health.

CREDIT(S)

Acts 1988, c. 42; Acts 2005, c. 74, eff. 90 days after April 9, 2005; Acts 2014, c. 36, eff. June 6, 2014.

Current with laws of the 2014 Second Extraordinary Session.

## W. VA. CODE ANN. § 61-8D-4 (2014). CHILD NEGLECT RESULTING IN INJURY; CHILD NEGLECT CREATING RISK OF INJURY; CRIMINAL PENALTIES

(a) If a parent, guardian or custodian neglects a child and by such neglect causes the child bodily injury, as bodily injury is defined in section one, article eight-b of this chapter, then the parent, guardian or custodian is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 dollars or imprisoned in a state correctional facility for not less than one nor more than three years, or in the discretion of the court, be confined in jail for not more than one year, or both.

(b) If a parent, guardian or custodian neglects a child and by such neglect cause the child serious bodily injury, as serious bodily injury is defined in section one, article eight-b of this chapter, then the parent, guardian or custodian is guilty of a felony and, upon conviction thereof, shall be fined not less than \$300 nor more than \$3,000 dollars or imprisoned in a state correctional facility for not less than one nor more than ten years, or both.

(c) If a parent, guardian or custodian grossly neglects a child and by that gross neglect creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in section one, article eight-b of this chapter, of the child then the parent, guardian or custodian is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000 dollars or imprisoned in a state correctional facility for not less than one nor more than five years, or both.

(d)(1) If a parent, guardian or custodian who has not been previously convicted under this section, section three of this article or a law of another state or the federal government with the same essential elements neglects a child and by that neglect creates a substantial risk of bodily injury, as defined in section one, article eight-b of this chapter, to the child, then the parent, guardian or custodian, is guilty of a misdemeanor and, upon conviction thereof, for a first offense, shall be fined not less than \$100 nor more than \$1,000 or confined in jail not more than six months, or both fined and confined.

(2) For a second offense under this subsection or for a person with one prior conviction under this section, section three of this article or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and confined in jail not less than thirty days nor more than one year, or both.

(3) For a third or subsequent offense under this subsection or for a person with two or more prior convictions under this section, section three of this article or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 and imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned.

(e) The provisions of this section shall not apply if the neglect by the parent, guardian or custodian is due primarily to a lack of financial means on the part of such parent, guardian or custodian.

(f) Any person convicted of a misdemeanor offense under this section:

(1) May be required to complete parenting classes, substance abuse counseling, anger management counseling, or other appropriate services, or any combination thereof, as determined by Department of Health and Human Resources, Bureau for Children and Families through its services assessment evaluation, which shall be submitted to the court of conviction upon written request;

(2) Shall not be required to register pursuant to the requirements of article thirteen, chapter fifteen of this code; and

(3) Shall not, solely by virtue of the conviction, have their custody, visitation or parental rights automatically restricted.

## CREDIT(S)

Acts 1988, c. 42; Acts 1992, c. 51; Acts 1996, c. 106, eff. 90 days after March 9, 1996; Acts 2014, c. 36, eff. June 6, 2014.

Current with laws of the 2014 Second Extraordinary Session.

### **W. VA. CODE ANN. § 61-8D-4A (2014). CHILD NEGLECT RESULTING IN DEATH; CRIMINAL PENALTIES**

(a) If any parent, guardian or custodian shall neglect a child under his or her care, custody or control and by such neglect cause the death of said child, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than one thousand dollars nor more than five thousand dollars or committed to the custody of the Division of Corrections for not less than three nor more than fifteen years, or both such fine and imprisonment.

(b) No child who in lieu of medical treatment was under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing with a reasonable proven record of success shall, for that reason alone, be considered to have been neglected within the provisions of this section. A method of religious healing shall be presumed to be a recognized method of religious healing if fees and expenses incurred in connection with such treatment are permitted to be deducted from taxable income as "medical expenses" pursuant to regulations or rules promulgated by the United States Internal Revenue Service.

(c) A child whose parent, guardian or legal custodian has inhibited or interfered with the provision of medical treatment in accordance with a court order may be considered to have been neglected for the purposes of this section.

## CREDIT(S)

Acts 1997, c. 75, eff. 90 days after April 12, 1997.

Current with laws of the 2014 Second Extraordinary Session.

## **WISCONSIN**

### **Wis. STAT. § 948.03 (2014). Physical abuse of a child**

#### (1) DEFINITIONS.

In this section, "recklessly" means conduct which creates a situation of unreasonable risk of harm to and demonstrates a conscious disregard for the safety of the child.

#### (2) INTENTIONAL CAUSATION OF BODILY HARM.

(a) Whoever intentionally causes great bodily harm to a child is guilty of a Class C felony.

(b) Whoever intentionally causes bodily harm to a child is guilty of a Class H felony.

(c) Whoever intentionally causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class F felony.

(3) RECKLESS CAUSATION OF BODILY HARM.

(a) Whoever recklessly causes great bodily harm to a child is guilty of a Class E felony.

(b) Whoever recklessly causes bodily harm to a child is guilty of a Class I felony.

(c) Whoever recklessly causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class H felony.

(4) FAILING TO ACT TO PREVENT BODILY HARM.

(a) A person responsible for the child's welfare is guilty of a Class F felony if that person has knowledge that another person intends to cause, is causing or has intentionally or recklessly caused great bodily harm to the child and is physically and emotionally capable of taking action which will prevent the bodily harm from occurring or being repeated, fails to take that action and the failure to act exposes the child to an unreasonable risk of great bodily harm by the other person or facilitates the great bodily harm to the child that is caused by the other person.

(b) A person responsible for the child's welfare is guilty of a Class H felony if that person has knowledge that another person intends to cause, is causing or has intentionally or recklessly caused bodily harm to the child and is physically and emotionally capable of taking action which will prevent the bodily harm from occurring or being repeated, fails to take that action and the failure to act exposes the child to an unreasonable risk of bodily harm by the other person or facilitates the bodily harm to the child that is caused by the other person.

(6) TREATMENT THROUGH PRAYER.

A person is not guilty of an offense under this section solely because he or she provides a child with treatment by spiritual means through prayer alone for healing in accordance with the religious method of healing permitted under s. 48.981 (3) (c) 4. or 448.03 (6) in lieu of medical or surgical treatment.

Credits:

2007 Act 80, § 16, eff. March 27, 2008.

2009 Act 308, § 1, eff. May 27, 2010.  
Current through 2013 Act 380, published 4/25/2014

**Wis. STAT. § 948.04 (2014). Causing mental harm to a child**

(1) Whoever is exercising temporary or permanent control of a child and causes mental harm to that child by conduct which demonstrates substantial disregard for the mental well-being of the child is guilty of a Class F felony.

(2) A person responsible for the child's welfare is guilty of a Class F felony if that person has knowledge that another person has caused, is causing or will cause mental harm to that child, is physically and emotionally capable of taking action which will prevent the harm, fails to take that action and the failure to act exposes the child to an unreasonable risk of mental harm by the other person or facilitates the mental harm to the child that is caused by the other person.

Credits:

2007 Act 80, § 16, eff. March 27, 2008.

2009 Act 308, § 1, eff. May 27, 2010.

Current through 2013 Act 380, published 4/25/2014

## **WYOMING**

**WYO. STAT. ANN. § 6-4-403 (2014). ABANDONING OR ENDANGERING CHILDREN; PENALTIES; "CHILD;" DISCLOSURE OR PUBLICATION OF IDENTIFYING INFORMATION; "MINOR VICTIM"**

(a) No parent, guardian or custodian of a child shall:

(i) Abandon the child without just cause; or

(ii) Knowingly or with criminal negligence cause, permit or contribute to the endangering of the child's life or health by violating a duty of care, protection or support.

(b) No person shall knowingly:

(i) Cause, encourage, aid or contribute to a child's violation of any law of this state;

(ii) Cause, encourage, aid or permit a child to enter, remain or be employed in any place or premises used for prostitution or for professional gambling;

(iii) Commit any indecent or obscene act in the presence of a child;

(iv) Sell, give or otherwise furnish a child any drug prohibited by law without a physician's prescription; or

(v) Cause, encourage, aid or contribute to the endangering of a child's health, welfare or morals, by using, employing or permitting a child:

(A) In any business enterprise which is injurious or dangerous to the health, morals, life or physical safety of the child;

(B) In any place for purposes of begging;

(C) To be exhibited for the purpose of displaying any deformity of a child, except to physicians, nurses or other health professionals; or

(D) In a place used for prostitution.

(E) Repealed by Laws 1999, ch. 180, § 3.

(vi) Conceal or refuse to reveal to the parent, guardian, lawful custodian or to a peace officer the location of a child knowing that the child has run away from a parent, guardian or lawful custodian, except when the action of the defendant is necessary to protect the child from an immediate danger to the child's welfare.

(c) A person violating this section is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both. A person convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not more than five (5) years, a fine of not more than five thousand dollars (\$5,000.00), or both.

(d) As used in this section, "child" means a person under the age of sixteen (16) years.

(e) Subsection (b)(ii) of this section does not apply to crimes chargeable under W.S. 6-4-103(a)(i). Subsection (b)(iv) of this section does not apply to crimes chargeable under W.S. 35-7-1036.

(f) Prior to the filing of an information or indictment charging a violation of W.S. 6-4-403(b)(ii), (iii) or (v)(D) or (E), neither the name of the person accused or the victim nor any other information reasonably likely to disclose the identity of the victim shall be released or negligently allowed to be released to the public by any public employee, except as authorized by the judge with jurisdiction over the criminal charges. The name of the person accused may be released to the public to aid or facilitate an arrest.

(g) After the filing of an information or indictment and absent a request to release the identity of a minor victim by the victim or another acting on behalf of a minor victim, the trial court shall

restrict the disclosure or publication of information reasonably likely to identify the minor victim.

(h) Any person who willfully violates subsection (f) or (g) of this section or who willfully neglects or refuses to obey any court order made pursuant thereto is guilty of contempt and, upon conviction, shall be fined not more than seven hundred fifty dollars (\$750.00) or be imprisoned in the county jail not more than ninety (90) days, or both.

(j) A release of a name or other information to the public in violation of the proscriptions of subsection (f) or (g) of this section shall not stand as a bar to the prosecution of a defendant or be grounds for dismissal of any charges against a defendant.

(k) As used in subsection (g) of this section, "minor victim" means a person under the age of eighteen (18) years.

Credits:

2001 Act 109, §§ 896, 897, eff. Feb. 1, 2003.

Current through 2013 Act 380, published 4/25/2014

## FEDERAL LEGISLATION

### FEDERAL LEGISLATION

#### 18 U.S.C.S. § 3509 (2014). CHILD VICTIMS' AND CHILD WITNESSES' RIGHTS

(a) Definitions. For purposes of this section--

(1) the term "adult attendant" means an adult described in subsection (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

(2) the term "child" means a person who is under the age of 18, who is or is alleged to be--

(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

(B) a witness to a crime committed against another person;

(3) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;

(4) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;

(5) the term "mental injury" means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response, or cognition;

(6) the term "exploitation" means child pornography or child prostitution;

(7) the term "multidisciplinary child abuse team" means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

(8) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(9) the term "sexually explicit conduct" means actual or simulated--

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse;

(10) the term "sex crime" means an act of sexual abuse that is a criminal act;

(11) the term "negligent treatment" means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and

(12) the term "child abuse" does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

(13) [Redesignated]

(b) Alternatives to live in-court testimony.

(1) Child's live testimony by 2-way closed circuit television.

(A) In a proceeding involving an alleged offense against a child, the attorney for the Government, the child's attorney, or a guardian ad litem appointed under subsection (h) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 7 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, for any of the following reasons:

(i) The child is unable to testify because of fear.

(ii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying.

(iii) The child suffers a mental or other infirmity.

(iv) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.

(C) The court shall support a ruling on the child's inability to testify with findings on the record. In determining whether the impact on an individual child of one or more of the factors described in subparagraph (B) is so substantial as to justify an order under subparagraph (A), the



court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the child attendant, the prosecutor, the child's attorney, the guardian ad litem, and the defense counsel present.

(D) If the court orders the taking of testimony by television, the attorney for the Government and the attorney for the defendant not including an attorney pro se for a party shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are--

- (i) the child's attorney or guardian ad litem appointed under subsection (h);
- (ii) persons necessary to operate the closed-circuit television equipment;
- (iii) a judicial officer, appointed by the court; and
- (iv) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, and the voice of the judge.

(2) Videotaped deposition of child.

(A) In a proceeding involving an alleged offense against a child, the attorney for the Government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subsection (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

(B) (i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

- (I) The child will be unable to testify because of fear.
- (II) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.
- (III) The child suffers a mental or other infirmity.
- (IV) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.

(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are--

- (I) the attorney for the Government;
- (II) the attorney for the defendant;
- (III) the child's attorney or guardian ad litem appointed under subsection (h);
- (IV) persons necessary to operate the videotape equipment;
- (V) subject to clause (iv), the defendant; and
- (VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

(v) Handling of videotape. The complete record of the examination of the child, including the image and voices of all persons who in any way participate in the examination, shall be made and preserved on video tape in addition to being stenographically recorded. The videotape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and the defendant's attorney during ordinary business hours.

(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal including Supreme Court review. The videotape shall become part of the court record and be kept by the court until it is destroyed.

(c) Competency examinations.

(1) Effect of Federal Rules of Evidence. Nothing in this subsection shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

(2) Presumption. A child is presumed to be competent.

(3) Requirement of written motion. A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

(4) Requirement of compelling reasons. A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

(5) Persons permitted to be present. The only persons who may be permitted to be present at a competency examination are--

(A) the judge;

- (B) the attorney for the Government;
  - (C) the attorney for the defendant;
  - (D) a court reporter; and
  - (E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.
- (6) Not before jury. A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.
- (7) Direct examination of child. Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the Government and the attorney for the defendant including a party acting as an attorney pro se. The court may permit an attorney but not a party acting as an attorney pro se to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.
- (8) Appropriate questions. The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.
- (9) Psychological and psychiatric examinations. Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

(d) Privacy protection.

(1) Confidentiality of information.

(A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall--

(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

(B) Subparagraph (A) applies to--

(i) all employees of the Government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the Government to provide assistance in the proceeding;

(ii) employees of the court;

(iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and

(iv) members of the jury.

(2) Filing under seal. All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court--

(A) the complete paper to be kept under seal; and

(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

(3) Protective orders.

(A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

(B) A protective order issued under subparagraph (A) may--

(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

(ii) provide for any other measures that may be necessary to protect the privacy of the child.

(4) Disclosure of information. This subsection does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

(e) Closing the courtroom. When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the Government's specific compelling interest.

(f) Victim impact statement. In preparing the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the child victim and any other children who may have been affected. A guardian ad litem appointed under subsection (h) shall make every effort to obtain and report information that accurately expresses the child's and the family's views concerning the child's victimization. A guardian ad litem shall use forms that permit the child to express the child's views concerning the personal consequences of the child's victimization, at a level and in a form of communication commensurate with the child's age and ability.

(g) Use of multidisciplinary child abuse teams.

(1) In general. A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the Government shall consult with the multidisciplinary child abuse team as appropriate.

(2) Role of multidisciplinary child abuse teams. The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including--

(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

- (B) telephone consultation services in emergencies and in other situations;
- (C) medical evaluations related to abuse or neglect;
- (D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;
- (E) expert medical, psychological, and related professional testimony;
- (F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and
- (G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

(h) Guardian ad litem.

(1) In general. The court may appoint, and provide reasonable compensation and payment of expenses for, a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

(2) Duties of guardian ad litem. A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. (The extent of access to grand jury materials is limited to the access routinely provided to victims and their representatives.) A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

(3) Immunities. A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties described in paragraph (2).

(i) Adult attendant. A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child. The image of the child attendant, for the time the child is testifying or being deposed, shall be recorded on videotape.

(j) Speedy trial. In a proceeding in which a child is called to give testimony, on motion by the attorney for the Government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over

any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.

(k) Stay of civil action. If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the civil action shall be stayed until the end of all phases of the criminal action and any mention of the civil action during the criminal proceeding is prohibited. As used in this subsection, a criminal action is pending until its final adjudication in the trial court.

(l) Testimonial aids. The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.

(m) Prohibition on reproduction of child pornography.

(1) In any criminal proceeding, any property or material that constitutes child pornography (as defined by section 2256 of this title [18 USCS § 2256]) shall remain in the care, custody, and control of either the Government or the court.

(2) (A) Notwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography (as defined by section 2256 of this title [18 USCS § 2256]), so long as the Government makes the property or material reasonably available to the defendant.

(B) For the purposes of subparagraph (A), property or material shall be deemed to be reasonably available to the defendant if the Government provides ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by the defendant, his or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.

CREDIT(S)

(Added Pub.L. 101-647, Title II, § 225(a), Nov. 29, 1990, 104 Stat. 4798; amended Pub.L. 103-322, Title XXXIII, §§ 330010(6), (7), 330011(e), 330018(b), Sept. 13, 1994, 108 Stat. 2143, 2145, 2149; Pub.L. 104-294, Title VI, § 605(h), Oct. 11, 1996, 110 Stat. 3510; Pub.L. 109-248, Title V, §§ 504, 507, July 27, 2006, 120 Stat. 629, 631; Pub.L. 111-16, § 3(11), May 7, 2009, 123 Stat. 1608.)

Current through P.L. 113-125 (excluding P.L. 113-121) approved 6-30-14

## **AMERICAN SAMOA**

### **AM. SAMOA CODE ANN. §46.3810 (2007). ENDANGERING THE WELFARE OF A CHILD**

(a) A person commits the crime of endangering the welfare of a child if:

(1) he knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than 18 years old;

(2) he knowingly encourages, aids or causes a child less than 18 years old to engage in any conduct which causes or tends to cause a sub-substantial risk to the life, body, or health of the child; or

(3) being a parent, guardian, or other person legally charged with the care or custody of a child less than 18 years old, he recklessly fails or refuses to exercise reasonable diligence in the care or control of the child to prevent a substantial risk to the life, body, or health of the child.

(b) Endangering the welfare of a child is a class A misdemeanor.

**AM. SAMOA CODE ANN. §45.2001 (2007). DEFINITIONS**

As used in this chapter unless the context otherwise requires:

(a)( 1) "Abuse" or "child abuse or neglect" means an act or omission in one of the following categories which seriously threatens the health or welfare of a child:

(A) when a child exhibits evidence of serious bruising, bleeding, malnutrition, failure to thrive, mental injury, burns, fracture of a bone, sub-dural hematoma, soft tissue swelling, or death, and the condition or death is not justifiably explained, or where the history given concerning the condition or death is at variance with the degree or type of the condition or death, or circumstances indicate that the condition or death may not be the product of an accidental occurrence;

(B) when a child is subject to the sexual offenses contained in 46.3601 to 46.3617 and 46.3802, or is allowed, permitted, or encouraged by the child's parents, legal guardian, custodian, or any other person responsible for the child's health and welfare, to engage in prostitution or be the subject of obscene or pornographic photographing, filming, or depicting;

(C) any case in which the child's parents, legal guardians, custodians or any other person responsible for the child's health and welfare fail to take the action to provide adequate food, clothing, shelter, medical care, or supervision that a prudent parent would take.

(2) In all cases, those investigating reports of child abuse shall take into account accepted child rearing practices of the culture. Nothing in subparagraph (a)(I)(B) refers to acts which could be construed to be a reasonable exercise of parental discipline as defined in subsection (20) of 45.0103.

(b) "Agency" means Child Protection Agency of the Department of Human Resources.

(c) "Department" means the Department of Public Safety.

(d) "Neglect" means acts which can reasonably be construed to fall under the definition of "child abuse or neglect" as defined in sub-section (a) above.

(e) "Receiving agency" means the Department of Health or law enforcement agency first receiving a report of alleged child abuse.

(f) "Responsible person" means a child's parent, legal guardian, or custodian, any employee of a residential facility, any staff person providing out-of-home care or under any other settings in which children are provided care, or any other person responsible for the child's health and welfare.

(g) "Unfounded report" means any report made under this chapter which is not supported by some credible evidence.

## **GUAM**

### **GUAM CODE ANN. TIT. 9, § 31.30 (2009). CHILD ABUSE; DEFINED & PUNISHED**

(a) A person is guilty of child abuse when:

- (1) he subjects a child to cruel mistreatment; or
- (2) having a child in his care or custody or under his control, he:

- (A) deserts that child with intent to abandon him;
- (B) subjects that child to cruel mistreatment; or
- (C) unreasonably causes or permits the physical or, emotional health of that child to be endangered.

(b) Child abuse is a felony of the third degree when it is committed under circumstances likely to result in death or serious bodily injury. Otherwise, it is a misdemeanor.

SOURCE: M.P.C. § 230.4; \*Cal. § 980 (1971); Mass. ch. 273, §§ 1, 4; N.J. § 2C:24-4.

## **PUERTO RICO**

### **P.R. LAWS ANN. TIT. 8, § 450D (2009). NEGLIGENCE**

Any father, mother, or person responsible for the wellbeing of a minor who through commission of an act, or omission causes harm to a minor or puts his or her health or physical, mental, or emotional integrity at risk, shall be sanctioned with a fixed term of imprisonment of two (2) years, or a fine of not be less than five thousand (5,000) dollars nor of more than eight thousand (8,000) dollars, or both penalties, at the discretion of the court.

Should there be aggravating circumstances, the fixed penalty thus established may be increased for up to a maximum of three (3) years; should there be extenuating circumstances



the fixed penalty may be reduced for up to a minimum of one (1) year. The neglect referred to in this section may take the form of repetitive conduct or of an isolated incident or an imprudent omission incurred without the proper care which causes a physical, mental, or emotional injury, or puts the minor at a substantial risk of death.

When the conduct typified in the preceding paragraph is the result of a pattern of negligent behavior that causes harm or puts the minor's health and physical, mental, or emotional integrity at risk, it shall be sanctioned with a fixed term of imprisonment of four (4) years, or a fine of not less than eight thousand (8,000) dollars, nor of more than ten thousand (10,000) dollars, or both penalties, at the discretion of the court. Should there be aggravating circumstances, the fixed penalty may be increased for up to a maximum of six (6) years; in the case of extenuating circumstances the fixed penalty may be reduced for up to a minimum of two (2) years.

— Aug. 1, 2003, No. 177, § 76, eff. 90 days after Aug. 1, 2003.

8 L.P.R.A. § 450d, PR ST T. 8 § 450d

The statutes and Constitution are current through December 2011, except for Act No. 136 of the 2010 Regular Session.

## **P.R. LAWS ANN. TIT. 8, § 447L (2009). REMEDIES – ABUSE AND NEGLECT**

In any judicial proceeding on abuse and/or neglect initiated under this chapter, the court may order any of the following remedies:

(a) To provide support services, keeping the minor at home under the protective supervision of the Department and under whatever conditions the court deems convenient, for a period that initially shall not be longer than six (6) months and which may be extended for just cause for up to a maximum of one (1) year, subject to the determination of the court.

(b) To deprive the father, mother, or the person responsible for the temporary custody of the minor, for a period that initially shall not be longer than six (6) months and which may be extended for just cause for up to a maximum of one (1) year, subject to the conditions that the court may deem convenient. In such cases, temporary custody of the minor may be awarded to any of the following:

(1) A member of the family of the minor.

(2) The Department, in which case physical custody may be awarded to a person designated by the Department.

(c) To award the physical custody of the minor in pursuing his/her best interests, to the person or institution that the court deems convenient, provided it is licensed or certified by the Department. Foster parents or operators of establishments where the minors are to be placed under this chapter, shall receive medical and educational information at the time of placement. Said information shall be revised and updated periodically.

(d) To deprive both parents of patria potestas, jointly, separately or only one of them, in those cases in which one of the grounds provided for in body of laws for withdrawing, restricting or suspending patria potestas, is proven.

(e) Any other determination needed for the protection of the best interests of the minor.

— Aug. 1, 2003, No. 177, § 76, eff. 90 days after Aug. 1, 2003.

8 L.P.R.A. § 450d, PR ST T. 8 § 450d

The statutes and Constitution are current through December 2011, except for Act No. 136 of the 2010 Regular Session.

## **VIRGIN ISLANDS**

### **V.I. CODE ANN. TIT. 14, § 481 (2014). NEGLECT OF PARENTAL DUTY; CAUSING DELINQUENCY OF A MINOR; LOITERING ON STREETS**

(a) Whoever commits any act or omits the performance of any duty, which act or omission causes a child under the age of 18 to become in need of the care and protection of the juvenile and domestic relations division of the Superior Court of the Virgin Islands, shall be fined not more than \$500 or imprisoned not more than 1 year, or both. In addition, the parent or the person responsible for a child's care and/or custody whose child is found in violation of the provisions of subsection (b) of this section may be subject to community service of up to 100 hours for the first offense and for subsequent and repeated offenses may be subject to community service of up to 200 hours or a fine of not more than \$500 or both. If the parent or the person responsible for the child's care and/or custody fails to exercise parental authority to prevent a curfew violation, during which a felony was committed, the Virgin Islands Police Department may cause the name or names of the parent or person responsible for the child's care and/or custody to be published in the official police blotter unless the parent or the person responsible for the child's care and/or custody has notified the Police Department that they are unable to exercise parental authority to prevent a curfew violation immediately upon such a violation occurring.

(b) Any child under the age of 16 years found upon or remaining upon the streets or highways after 10:00 p.m., unaccompanied by a person legally responsible for such child's behavior, except the child shows to the satisfaction of the police that he is in transit to or from his home to another place supervised by adults either with the express consent or under the direction of his parent or guardian, shall be taken into custody by the police and held until released to the parent or guardian, who shall be notified forthwith. In addition, the offending child may be subject to community service of up to 100 hours for the first offense; for subsequent and repeated offenses, the offending child may be subject to community service of up to 200 hours or a fine of not more than \$500 or both. A child who commits a second or subsequent violation of the curfew herein while operating a motor vehicle may have their driver's license suspended for not more than six (6) months. The child shall be referred to the Department of Human Services for investigation and services.

Amended June 12, 1959, No. 475, § 2, Sess. L. 1959, p. 84; June 27, 1963, No. 1042, Sess. L. 1963, p. 407; Sept. 9, 1976, No 3876, § 5, Sess. L. 1976, p. 197; Apr. 28, 1977, No. 3972, § 3, Sess. L. 1977, p. 49; Feb. 15, 1994, No. 5957, §§ 1, 2, Sess. L. 1994, p. 14; Oct. 15, 2010, No. 7203, § 2, Sess. L. 2010, p. 204.

Current through Act 7578 of the 2013 Regular Session. Annotations current through April 7, 2014