

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 14-0907.03 Jane Ritter x4342

SENATE BILL 14-177

SENATE SPONSORSHIP

Kerr and Newell,

HOUSE SPONSORSHIP

Young,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

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

Bill Summary

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

The bill establishes a definition for a "drug-endangered child" for purposes of cases of child abuse or neglect in the children's code.

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

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

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

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

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

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

17 (d) Effective training needs to stem from a common definition of
18 "drug-endangered child"; and

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

26 (2) The general assembly further declares that the stability and
27 preservation of the families of this state, as well as the safety and

1 protection of children, are matters of statewide concern and that the
2 purpose of Colorado's Children's Code is to make a commitment to make
3 "reasonable efforts" to unify the family unit whenever appropriate.

4 (3) Therefore, the general assembly declares and adopts a
5 definition of a "drug-endangered child" for the Colorado Children's Code.

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

8 **19-1-103. Definitions.** As used in this title or in the specified
9 portion of this title, unless the context otherwise requires:

10 (1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of
11 article 3 of this title, means an act or omission in one of the following
12 categories that ONLY WHEN THAT ACT OR OMISSION threatens the health or
13 welfare of a child:

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

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

25 (44.7) "DRUG-ENDANGERED CHILD" MEANS ANY CHILD IN A CASE
26 IN WHICH ANY OF THE FOLLOWING SITUATIONS OCCUR:

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

1 CHILD IS FOUND OR RESIDES, A CONTROLLED SUBSTANCE, AS DEFINED IN
2 SECTION 18-18-102 (5), C.R.S., IS MANUFACTURED, DISTRIBUTED,
3 CULTIVATED, PRODUCED, POSSESSED, OR USED, OR ATTEMPTED TO BE
4 MANUFACTURED, DISTRIBUTED, CULTIVATED, PRODUCED, POSSESSED, OR
5 USED, AND ONLY WHEN SUCH ACTIVITY THREATENS THE HEALTH OR
6 WELFARE OF THE CHILD; OR

7 (b) A CHILD'S HEALTH OR WELFARE IS THREATENED BY
8 UNRESTRICTED ACCESS TO EITHER A CONTROLLED SUBSTANCE, AS DEFINED
9 IN SECTION 18-18-102 (5), C.R.S., OR ANY LEGAL SUBSTANCE CAPABLE OF
10 CAUSING A MENTAL OR PHYSICAL IMPAIRMENT; OR

11 (c) A CHILD'S HEALTH OR WELFARE IS THREATENED BY THE
12 IMPAIRMENT OF THE PERSON RESPONSIBLE FOR THE CARE OF THE CHILD, AS
13 DEFINED IN SECTION 19-1-103 (94), IF THE IMPAIRMENT IS DUE TO THE USE
14 OF EITHER A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-102
15 (5), C.R.S., OR ANY LEGAL SUBSTANCE CAPABLE OF CAUSING A MENTAL
16 OR PHYSICAL IMPAIRMENT; OR

17 (d) A CHILD TESTS POSITIVE AT BIRTH FOR EITHER A SCHEDULE I
18 CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-203, C.R.S., OR
19 A SCHEDULE II CONTROLLED SUBSTANCE, AS DEFINED IN SECTION
20 18-18-204, C.R.S., UNLESS THE CHILD TESTS POSITIVE FOR A SCHEDULE II
21 CONTROLLED SUBSTANCE AS A RESULT OF THE MOTHER'S LAWFUL INTAKE
22 OF SUCH SUBSTANCE AS PRESCRIBED.

23 **SECTION 3. In Colorado Revised Statutes, add 26-1-140 as**
24 **follows:**

25 **26-1-140. Drug-endangered child definition - effect of**
26 **legislation review - repeal. (1) ON OR BEFORE DECEMBER 1, 2016, THE**
27 **STATE DEPARTMENT SHALL REVIEW AND PREPARE A REPORT ON THE**

1 EFFECT AND OUTCOMES OF SENATE BILL 14-177, ENACTED IN 2014, FROM
2 AUGUST 1, 2014, THROUGH AUGUST 1, 2016. THE REVIEW MUST INCLUDE
3 THE NUMBER OF CHILDREN REMOVED FROM THE HOME BASED ON THE
4 DEFINITION OF A DRUG-ENDANGERED CHILD IN SECTION 19-1-103 (44.7),
5 C.R.S., AND ANY OTHER INFORMATION THE STATE DEPARTMENT DEEMS
6 NECESSARY TO ASSESS THE IMPACT OF SENATE BILL 14-177, ENACTED IN
7 2014, ON CHILDREN AND FAMILIES. THE STATE DEPARTMENT SHALL
8 PROVIDE A COPY OF THE REPORT TO THE JUDICIARY COMMITTEES OF THE
9 SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR
10 COMMITTEES, ON OR BEFORE DECEMBER 1, 2016.

11 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2017.

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