

**DRUG ENDANGERED CHILDREN**  
**Compiled Statutes Updated June 2007**  
**Table of Contents**

<b>FEDERAL</b> .....	<b>5</b>
42 USCS § 5101.....	5
42 USCS § 5106A.....	5
PUBLIC LAW NO: 108-36.....	5
<b>ALABAMA</b> .....	<b>6</b>
CODE OF ALA. § 26-15-3.2 (2007).....	6
<b>ALASKA</b> .....	<b>7</b>
ALASKA STAT. § 11.51.110 (2007).....	7
SEC. 12.55.125 (2007).....	7
<b>ARIZONA</b> .....	<b>8</b>
A.R.S. § 13-3623 (2007) .....	8
A.R.S. § 13-3620 (2007) .....	9
<b>ARKANSAS</b> .....	<b>9</b>
ARK. STAT. ANN. § 12-12-503 (2007).....	9
ARK. STAT. ANN. (2007).....	10
<b>CALIFORNIA</b> .....	<b>11</b>
CAL PEN CODE § 273A (2007)§ 273A.....	11
CAL PEN CODE § 13879.80 (2007) .....	11
CAL PEN CODE § 13879.81 (2007) .....	12
CAL PEN CODE § 11165.13 (2007) .....	12
CAL HEALTH & SAF CODE § 11379.7 (2007) .....	12
<b>COLORADO</b> .....	<b>13</b>
C.R.S. 19-1-103 (2006).....	13
C.R.S. 18-6-401 (2006).....	13
C.R.S. 19-3-401 (2006).....	14
<b>CONNECTICUT</b> .....	<b>15</b>
<b>DELAWARE</b> .....	<b>15</b>
11 DEL. C. § 1102 (2007) .....	15
<b>DISTRICT OF COLUMBIA</b> .....	<b>16</b>
D.C. CODE § 16-2301 (2007) .....	16
D.C. CODE § 4-1321.02 (2007) .....	16
D.C. CODE § 4-1301.06 (2007) .....	16
<b>FLORIDA</b> .....	<b>17</b>
FLA. STAT. § 39.01 (2007).....	17
<b>GEORGIA</b> .....	<b>17</b>
O.C.G.A. § 16-5-73 (2007) .....	17
<b>GUAM</b> .....	<b>18</b>
GUAM CODE ANN. TIT. 19, § 13101 .....	18

<b>HAWAII</b> .....	<b>18</b>
HRS § 350-1 (2007).....	18
HRS § 587-89 (2007).....	18
HRS § 709-903.5 (2007) .....	19
HRS § 709-904 (2007).....	19
HRS § 350-1 (2007).....	20
<b>IDAHO</b> .....	<b>20</b>
IDAHO CODE § 37-2737A (2007).....	20
<b>ILLINOIS</b> .....	<b>21</b>
§ 720 ILCS 5/12-4.10.....	21
325 ILCS 5/3 (2007) .....	21
2005 ILL. ALS 556 (2007).....	22
<b>INDIANA</b> .....	<b>23</b>
IC 34-24-4-1 (2007).....	23
IC 34-24-4-2 (2007).....	23
IC 31-34-1-10; 31-34-1-11 (2006) .....	24
IC 31-34-1-2 (2006).....	24
<b>IOWA</b> .....	<b>24</b>
IOWA CODE § 726.6 (2006) .....	24
IOWA CODE § 232.2 (2006) .....	25
IOWA CODE § 232.77 (2006) .....	25
IOWA CODE § 232.68 (2006) .....	26
<b>KANSAS</b> .....	<b>26</b>
K.S.A. § 21-3608A (2006).....	26
<b>KENTUCKY</b> .....	<b>27</b>
KRS § 600.020 (2006) .....	27
KRS § 600.020 (2006) .....	27
<b>LOUISIANA</b> .....	<b>28</b>
LA. R.S. 14:92.1 (2007).....	28
LA. R.S. 14:93 (2007) .....	29
LA. R.S. 14:93.2.3 (2007).....	29
LA. CH.C. ART. 603 (2007) .....	29
<b>MAINE</b> .....	<b>30</b>
TITLE 17-A, § 554 (2007).....	30
22 M.R.S. § 4004-B (2006) .....	30
<b>MARYLAND</b> .....	<b>31</b>
MD. CRTS. & JUD. PROC. CODE ANN. § 3-818.....	31
MD. FAMILY LAW CODE ANN. § 5-710 (2007).....	31
MD. FAMILY LAW CODE ANN. § 5-706.3 (2007) .....	32
<b>MASSACHUSETTS</b> .....	<b>32</b>
ALM GL CH. 265, § 13L (2005).....	32
ALM GL CH. 119, § 51A (2007) .....	33
<b>MICHIGAN</b> .....	<b>33</b>
MCLS § 722.623A (2007).....	33

<b>MINNESOTA .....</b>	<b>34</b>
MINN. STAT. § 609.378 (2004).....	34
MINN. STAT. § 626.5562 (2006).....	34
MINN. STAT. § 626.5561 (2006).....	35
<b>MISSISSIPPI .....</b>	<b>35</b>
MISS. CODE ANN. § 41-29-313 (2007) .....	35
<b>MISSOURI.....</b>	<b>36</b>
§ 568.045 R.S.Mo. (2007).....	36
§ 568.050 R.S.Mo. (2007).....	36
§ 191.737 R.S.Mo. (2007).....	37
<b>MONTANA.....</b>	<b>38</b>
MONT. CODE ANNO., § 45-5-622 (2005).....	38
MONT. CODE ANNO., § 41-3-102 (2005).....	38
<b>NEBRASKA.....</b>	<b>39</b>
R.R.S. NEB. § 43-292 (2007).....	39
<b>NEVADA.....</b>	<b>39</b>
NEV. REV. STAT. ANN. § 200.508 (2007).....	39
NEV. REV. STAT. ANN. § 432B.330 (2007) .....	39
<b>NEW HAMPSHIRE.....</b>	<b>39</b>
RSA 639:3 (2007).....	39
<b>NEW JERSEY .....</b>	<b>39</b>
<b>NEW MEXICO.....</b>	<b>40</b>
<b>NEW YORK .....</b>	<b>40</b>
NY CLS PENAL § 260.10 (2007).....	40
NY CLS SOC SERV § 371 (2007) .....	40
<b>NORTH CAROLINA.....</b>	<b>40</b>
N.C. GEN. STAT. § 15A-1340.16 (2007) .....	40
<b>NORTH DAKOTA.....</b>	<b>41</b>
N.D. CENT. CODE, § 19-03.1-22.2 (2007) .....	41
N.D. CENT. CODE, § 27-20-02 (2007) .....	42
N.D. CENT. CODE, § 50-25.1-17 (2007) .....	42
N.D. CENT. CODE, § 27-20-02 (2007).....	43
<b>OHIO.....</b>	<b>43</b>
ORC ANN. 2919.22 (2007).....	43
<b>OKLAHOMA .....</b>	<b>43</b>
21 OKL. ST. § 852.1 (2006) .....	44
10 OKL. ST. § 7103 (2006) .....	44
<b>OREGON.....</b>	<b>44</b>
ORS 163.547 (2005) .....	44
ORS § 419B.005 (2005).....	45
<b>PENNSYLVANIA .....</b>	<b>45</b>

18 PA.C.S. § 4304 (2006) .....	45
35 P.S. § 780-113 (2006).....	46
<b>RHODE ISLAND .....</b>	<b>46</b>
R.I. GEN. LAWS § 40-11-2 (2007) .....	46
<b>SOUTH CAROLINA .....</b>	<b>47</b>
S.C. CODE ANN. § 20-7-736 (2006) .....	47
<b>SOUTH DAKOTA.....</b>	<b>47</b>
D. CODIFIED LAWS § 26-8A-2 (2007) .....	47
<b>TENNESSEE .....</b>	<b>48</b>
TENN. CODE ANN. § 37-1-102 (2007) .....	48
<b>TEXAS.....</b>	<b>48</b>
TEX. PENAL CODE § 22.041 (2006) .....	48
TEX. FAM. CODE § 261.001 (2006) .....	49
<b>UTAH .....</b>	<b>50</b>
UTAH CODE ANN. § 76-5-112.5 (2007).....	50
UTAH CODE ANN. § 62A-4A-404 (2007).....	50
<b>VIRGINIA.....</b>	<b>51</b>
VA. CODE ANN. § 18.2-248.02 (2007) .....	51
VA. CODE ANN. § 63.2-1509 (2007) .....	51
<b>WASHINGTON.....</b>	<b>52</b>
REV. CODE WASH. (ARCW) § 26.44.200 (2007).....	52
REV. CODE WASH. (ARCW) § 26.44.170 (2007).....	52
REV. CODE WASH. (ARCW) § 9.94A.605 (2007) .....	52
WEST VIRGINIA .....	53
W. VA. CODE § 60A-10-12 (2007) .....	53
<b>WISCONSIN.....</b>	<b>53</b>
WIS. STAT. § 48.02 (2006) .....	53
WIS. STAT. § 48.205 (2006) .....	54
<b>WYOMING.....</b>	<b>54</b>
WYO. STAT. § 6-4-403 (2006) .....	54

## **DRUG ENDANGERED CHILDREN**

\*Relevant substantive excerpts are presented in this compilation. Please look up the statutes listed to obtain all relevant information including procedural elements.

### **FEDERAL**

#### 42 USCS § 5101

##### § 5101. Office on Child Abuse and Neglect

(a) Establishment. The Secretary of Health and Human Services may establish an office to be known as the Office on Child Abuse and Neglect.

(b) Purpose. The purpose of the Office established under subsection (a) shall be to execute and coordinate the functions and activities of this Act. In the event that such functions and activities are performed by another entity or entities within the Department of Health and Human Services, the Secretary shall ensure that such functions and activities are executed with the necessary expertise and in a fully coordinated manner involving regular intradepartmental and interdepartmental consultation with all agencies involved in child abuse and neglect activities.

#### 42 USCS § 5106a

##### § 5106a. Grants to States for child abuse and neglect prevention and treatment programs

(b) Eligibility requirements.

(2) Coordination.

(A) an assurance in the form of a certification by the chief executive officer of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a Statewide program, relating to child abuse and neglect that includes-- (ii) policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, including a requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition in such infants, except that such notification shall not be construed to--

(I) establish a definition under Federal law of what constitutes child abuse; or

(II) require prosecution for any illegal action;

(iii) the development of a plan of safe care for the infant born and identified as being affected by illegal substance abuse or withdrawal symptoms;

(iv) procedures for the immediate screening, risk and safety assessment, and prompt investigation of such reports;

**KEEPING CHILDREN AND FAMILIES SAFE ACT 2003**

Amends the Child Abuse Prevention and Treatment Act

Public Law No: 108-36

(Sec. 114) Requires States to have in effect and enforce: (1) policies and procedures to address the needs of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure (including appropriate referrals to child protection service systems, and including a requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of such condition); (2) a plan of safe care for the infant born and identified as being affected by illegal substance abuse or withdrawal symptoms; and (3) triage procedures for the appropriate referral of a child not at risk of imminent harm to a community organization or voluntary preventive service.

(Sec. 302) Amends the Abandoned Infants Assistance Act of 1988 to prohibit the Secretary from making a grant unless the grant applicant agrees to give priority to abandoned infants and young children who: (1) are infected with, or have been perinatally exposed to, the human immunodeficiency virus (HIV), or have a life-threatening illness or other special medical need; or (2) have been perinatally exposed to a dangerous drug.

**Pending Legislation:**

Drug Endangered Children Act of 2007: H.R. 1199, S. 1210

**ALABAMA**

Code of Ala. § 26-15-3.2 (2007)

§ 26-15-3.2. 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.

## **ALASKA**

Alaska Stat. § 11.51.110 (2007)

Sec. 11.51.110. Endangering the welfare of a child in the second degree

(a) A person commits the crime 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.

Sec. 12.55.125 (2007)

Sentences of imprisonment for felonies

(c) Except as provided in (i) of this section, a defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to a definite term within the following presumptive ranges:

(1) if the offense is a first felony conviction

(B) and the conviction is for manufacturing related to methamphetamine under [AS 11.71.020\(a\)\(2\)\(A\)](#) or (B), seven to 11 years, if:

(i) the manufacturing occurred in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(2) if the offense is a first felony conviction,

(A) the defendant violated [AS 11.41.130](#), [criminally negligent homicide] and the victim was a child under 16 years of age, two to four years;

(B) two to four years if the conviction is for an attempt, solicitation, or conspiracy to

manufacture related to methamphetamine under AS 11.31 and [AS 11.71.020\(a\)\(2\)\(A\)](#) or (B), and

(i) the attempted manufacturing occurred, or the solicited or conspired offense was to have occurred, in a building with reckless disregard that the building was used as a permanent or temporary home or place of lodging for one or more children under 18 years of age or the building was a place frequented by children; or

(ii) in the course of an attempt to manufacture, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, four to seven years;

(4) if the offense is a third felony conviction, six to 10 years.

(ii) in the course of manufacturing or in preparation for manufacturing, the defendant obtained the assistance of one or more children under 18 years of age or one or more children were present;

(3) if the offense is a second felony conviction, 10 to 14 years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under ( 1 ) of this section, 15 to 20 years.

## **ARIZONA**

### A.R.S. § 13-3623 (2007)

§ 13-3623. Child or vulnerable adult abuse; emotional abuse; classification; exception; 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...

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 13-604.01](#).

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

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

A.R.S. § 13-3620 (2007)

§ 13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions:

E. A health care professional who is regulated pursuant to title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in [section 13-3401](#) shall immediately report this information, or cause a report to be made, to child protective services in the department of economic security. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.

**ARKANSAS**

Ark. Stat. Ann. § 12-12-503 (2007)

(A) "Abuse" means any of the following acts or omissions by a parent, guardian, custodian, foster parent, person eighteen (18) years of age or older living in the home with a child whether related or unrelated to the child, or any person who is entrusted with the juvenile's care by a parent, guardian, custodian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible for the juvenile's welfare, but excluding the spouse of a minor:

(f) Giving a child or permitting a child to consume or inhale a poisonous or noxious substance not prescribed by a physician that has the capacity to interfere with normal physiological functions;

(g) Giving a child or permitting a child to consume or inhale a substance not prescribed by a physician that has the capacity to alter the mood of the child, including, but not limited to, the following:

(1) Marijuana;

(2) Alcohol, excluding alcohol given to a child during a recognized and established religious ceremony or service;

(3) A narcotic; or

(4) An over-the-counter drug if a person purposely administers an overdose to a child or purposely gives an inappropriate over-the-counter drug to a child and the child is detrimentally impacted by the overdose or the over-the-counter drug;

(h) Exposing a child to a chemical that has the capacity to interfere with normal

physiological functions, including, but not limited to, a chemical used or generated during the manufacture of methamphetamine;

(B) (i) "Neglect" shall also include the causing of a newborn child to be born with:

(a) An illegal substance present in the child's bodily fluids or bodily substances as a result of the pregnant mother's knowingly using an illegal substance before the birth of the child; or

(b) A health problem as a result of the mother's use before birth of an illegal substance.

(ii) As used in this subdivision (12)(B), "illegal substance" means a drug that is prohibited to be used or possessed without a prescription under the Arkansas Criminal Code, § 5-1-101 et seq.

(iii) A test of the child's bodily fluids or bodily substances may be used as evidence to establish neglect under subdivision (12)(B)(i)(a) of this section.

(iv) A test of the mother's or child's bodily fluids or bodily substances may be used as evidence to establish neglect under this subdivision (12)(B)(i)(b);

Ark. Stat. Ann. (2007)

5-64-406. Distribution to minors - Enhanced penalties.

(a) Any person eighteen (18) years of age or over who violates § 5-64-401(a) by distributing a controlled substance listed in Schedules I or II that is a narcotic drug or Methamphetamine to a person under eighteen (18) years of age who is at least three (3) years his or her junior is punishable by the fine authorized by § 5-64-401(a)(1)(i), by a term of imprisonment of up to twice that authorized by § 5-64-401(a)(1)(i), or by both.

5-64-411 Proximity to certain facilities - Enhanced penalties.

(a) Any person who commits an offense under § 5-64-401(a) by selling, delivering, possessing with intent to deliver, dispensing, manufacturing, transporting, administering, or distributing a controlled substance may be subject to an enhanced sentence of an additional term of imprisonment of ten (10) years if the offense is committed on or within one thousand feet (1,000') of the real property of:

- (1) A city or state park;
- (2) A public or private elementary or secondary school, public vocational school, or private or public college or university;
- (3) A skating rink, Boys Club, Girls Club, YMCA, YWCA, or community or recreation center;
- (4) A publicly funded and administered multifamily housing development;
- (5) A drug or alcohol treatment facility;
- (6) A day care center;
- (7) A church; or
- (8) A shelter as defined in § 9-4-102.

(b) The enhanced portion of the sentence shall be consecutive to any other sentence imposed.

5-27-230 Exposing a child to a chemical substance or methamphetamine.

(b)(1) Any adult who, with the intent to manufacture methamphetamine, knowingly causes or permits a child to be exposed to, ingest, inhale, or have any contact with a chemical substance or methamphetamine is guilty of a Class C felony.

(2) Any adult who violates subdivision (b)(1) of this section is guilty of a Class B felony if a child suffers physical injury or serious physical injury because of the violation.

5-64-407. Manufacture of methamphetamine in the presence of minors - Enhanced penalties.

(a) Any person who is found guilty of or who pleads guilty or nolo contendere to manufacture of methamphetamine, § 5-64-401(a)(1), or possession of drug paraphernalia with the intent to manufacture methamphetamine, § 5-64-403(c)(5) may be subject to an enhanced sentence of an additional term of imprisonment of ten (10) years if the offense is committed.

## **CALIFORNIA**

Cal Pen Code § 273a (2007)§ 273a.

Endangering child or causing or permitting child to suffer physical pain, mental suffering, or injury; 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.

Cal Pen Code § 13879.80 (2007)

§ 13879.80. Written policies for response to narcotics crime scenes where child lives  
Every law enforcement and social services agency in this state is encouraged to develop, adopt, and implement written policies and standards for their response to narcotics crime scenes where a child is either immediately present or where there is evidence that a child lives, by January 1, 2005. These policies shall reflect the fact that exposing a child to the manufacturing, trafficking, and use of narcotics is criminal conduct and that a response coordinated by law enforcement and social services agencies is essential to the child's health and welfare.

(b) The needs of a drug endangered child are best served with written policies

encouraging the arrest of an individual for child endangerment where there is probable cause that an offense has been committed coordinated with an appropriate investigation of the child's welfare by child protective agencies. Protocols that encourage a dependency investigation contemporaneous with a law enforcement investigation at a narcotics crime scene, when appropriate, are consistent with a child's best interest.

Cal Pen Code § 13879.81 (2007)

§ 13879.81. Multijurisdictional groups to address welfare of children endangered by parental drug use; Standards and protocols

Communities are encouraged to form multijurisdictional groups that include law enforcement officers, prosecutors, public health professionals, and social workers to address the welfare of children endangered by parental drug use. These coordinated groups should develop standards and protocols, evidenced by memorandums of understanding, that address the following:

- (a) Felony and misdemeanor arrests.
- (b) Immediate response of protective social workers to a narcotics crime scene involving a child.
- (c) Outsourcing protective social workers to law enforcement.
- (d) Dependency investigations.
- (e) Forensic drug testing and interviewing.
- (f) Decontamination of a child found in a lab setting.
- (g) Medical examinations and developmental evaluations.
- (h) Creation of two hours of P.O.S.T. drug endangered children awareness training.

Cal Pen Code § 11165.13 (2007)

§ 11165.13. Effect of positive toxicology screen at time of delivery of infant

For purposes of this article, a positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect. However, any indication of maternal substance abuse shall lead to an assessment of the needs of the mother and child pursuant to [Section 123605 of the Health and Safety Code](#). If other factors are present that indicate risk to a child, then a report shall be made. However, a report based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse shall be made only to a county welfare or probation department, and not to a law enforcement agency.

Cal Health & Saf Code § 11379.7 (2007)

§ 11379.7. Enhanced punishment for certain offenses causing injury to child or occurring where child is present

(a) Except as provided in subdivision (b), any person convicted of a violation of subdivision (a) of Section 11379.6 or Section 11383, or of an attempt to violate subdivision (a) of Section 11379.6 or Section 11383, as those sections relate to methamphetamine or phencyclidine, when the commission or attempted commission of the crime occurs in a structure where any child under 16 years of age is present, shall, in addition and consecutive to the punishment prescribed for the felony of which he or she has been convicted, be punished by an additional term of two years in the state prison.

(b) Any person convicted of a violation of subdivision (a) of Section 11379.6 or Section 11383, or of an attempt to violate subdivision (a) of Section 11379.6 or Section 11383, as those sections relate to methamphetamine or phencyclidine, where the commission of the crime causes any child under 16 years of age to suffer great bodily injury, shall, in addition and consecutive to the punishment prescribed for the felony of which he or she has been convicted, be punished by an additional term of five years in the state prison.

(c) As used in this section, "structure" means any house, apartment building, shop, warehouse, barn, building, vessel, railroad car, cargo container, motor vehicle, housecar, trailer, trailer coach, camper, mine, floating home, or other enclosed structure capable of holding a child and manufacturing equipment.

## **COLORADO**

### **C.R.S. 19-1-103 (2006)**

#### **19-1-103. Definitions**

As used in this title or in the specified portion of this title, unless the context otherwise requires:

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

(VI) Any case in which, in the presence of a child, or on the premises where a child is found, or where a child resides, a controlled substance, as defined in [section 18-18-102 \(5\), C.R.S.](#), is manufactured or attempted to be manufactured;

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

### **C.R.S. 18-6-401 (2006)**

(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.

(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.

(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 \(8\) \(d\)](#).

(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 shall be an affirmative defense to such charge that the parent safely, reasonably, and knowingly handed the child over to a firefighter, as defined in [section 18-3-201 \(1\)](#), or to a hospital staff member who engages in the admission, care, or treatment of patients, when such firefighter is at a fire station or such hospital staff member is at a hospital.

19-3-401. Taking children into custody

(a) Notwithstanding the provisions of subsections (1) and (1.5) of this section and except as otherwise provided in paragraphs (b) and (c) of this subsection (3), a newborn child, as defined in [section 19-1-103 \(78.5\)](#), who is not in a hospital setting shall not be taken into temporary protective custody for a period of longer than twenty-four hours without an order of the court made pursuant to [section 19-3-405 \(1\)](#), which order includes findings that an emergency situation exists and that the newborn child is seriously endangered as described in paragraph (a) of subsection (1) of this section.

(c) The court orders required by paragraphs (a) and (b) of this subsection (3) shall not be required in the following circumstances:

(I) When a newborn child is identified by a physician, registered nurse, licensed practical nurse, or physician's assistant engaged in the admission, care, or treatment of patients as being affected by substance abuse or demonstrating withdrawal symptoms resulting from prenatal drug exposure;

(IV) When the newborn child is subject to an environment exposing the newborn child to a laboratory for manufacturing controlled substances as defined in [section 18-18-102 \(5\), C.R.S.](#)

**CONNECTICUT**

**DELAWARE**

11 Del. C. § 1102 (2007)

§ 1102. 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 less than 18 years old the person:

(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

(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.

(a) 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(d) 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.

## **DISTRICT OF COLUMBIA**

D.C. Code § 16-2301 (2007)

### § 16-2301. Definitions

(9) The term "neglected child" means a child:

(viii) who is born addicted or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth;

(ix) in whose body there is a controlled substance as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian; or

(x) who is regularly exposed to illegal drug-related activity in the home.

D.C. Code § 4-1321.02 (2007)

### § 4-1321.02. Persons required to make reports; procedure [Formerly § 2-1352]

(b) In addition to the requirements in subsections (a) and (b) of this section, any health professional licensed pursuant to Chapter 12 of Title 3, or a law enforcement officer, except an undercover officer whose identity or investigation might be jeopardized, shall report immediately, in writing, to the Child and Family Services Agency, that the law enforcement officer or health professional has reasonable cause to believe that a child is abused as a result of inadequate care, control, or subsistence in the home environment due to exposure to drug-related activity. The report shall be in accordance with the provisions of [§ 4-1321.03](#).

D.C. Code § 4-1301.06 (2007)

### § 4-1301.06. Investigation [Formerly § 6-2104]

(a) The full investigation shall be completed no more than 30 days after the receipt of

the first notice of the suspected abuse or neglect.

(b) The investigation shall determine:

(1) The nature, extent, and cause of the abuse or neglect, if any;

(2) If mental injury, as defined in [§ 16-2301\(31\)](#), is suspected, an assessment of the suspected mental injury by a physician, a psychologist, or a licensed clinical social worker;

## **FLORIDA**

Fla. Stat. § 39.01 (2007)

(31) "Harm" to a child's health or welfare can occur when any person:

(a) Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury. In determining whether harm has occurred, the following factors must be considered in evaluating any physical, mental, or emotional injury to a child: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Such injury includes, but is not limited to:

2. Purposely giving a child poison, alcohol, drugs, or other substances that substantially affect the child's behavior, motor coordination, or judgment or that result in sickness or internal injury. For the purposes of this subparagraph, the term "drugs" means prescription drugs not prescribed for the child or not administered as prescribed, and controlled substances as outlined in Schedule I or Schedule II of [s. 893.03](#).

(g) Exposes a child to a controlled substance or alcohol. Exposure to a controlled substance or alcohol is established by:

1. Use by the mother of a controlled substance or alcohol during pregnancy when the child, at birth, is demonstrably adversely affected by such usage; or

2. Continued chronic and severe use of a controlled substance or alcohol by a parent when the child is demonstrably adversely affected by such usage.

As used in this paragraph, the term "controlled substance" means prescription drugs not prescribed for the parent or not administered as prescribed and controlled substances as outlined in Schedule I or Schedule II of [s. 893.03](#).

## **GEORGIA**

O.C.G.A. § 16-5-73 (2007)

§ 16-5-73. Prohibition against presence of children during manufacture of methamphetamine; punishment (b)(1) Any person who intentionally causes or permits a child to be present where any person is manufacturing methamphetamine or possessing a chemical substance with the intent to manufacture methamphetamine shall be guilty of a

felony and, upon conviction thereof, shall be punished by imprisonment for not less than two nor more than 15 years. (2) Any person who violates paragraph (1) of this subsection wherein a child receives serious injury as a result of such violation shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five nor more than 20 years.

## **GUAM**

Guam Code Ann. Tit. 19, § 13101

(t)(3) "Harm to a child's physical health or welfare" occurs in a case where there exists evidence of injury, including but not limited to any case where the child is provided with a controlled substance as defined by the Criminal and Correctional Code. However, this paragraph shall not apply to a child's family who provides such drugs to the child pursuant to the direction or prescription of a practitioner.

## **HAWAII**

HRS § 350-1 (2007)

§ 350-1. Definitions.

For the purposes of this chapter, unless the context specifically indicates otherwise:

"Child abuse or neglect" means the acts or omissions of any person who, or legal entity which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child's care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed.

(5) When the child is provided with dangerous, harmful, or detrimental drugs as defined by section 712-1240; provided that this paragraph shall not apply when such drugs are provided to the child pursuant to the direction or prescription of a practitioner, as defined in section 712-1240.

HRS § 587-89 (2007)

[§ 587-89.] Drug-affected infants; treatment; family referral; federal grants.

(a) In conformity to the Child Abuse Prevention and Treatment Act ([42 U.S.C. 5106a](#)) as amended by the Keeping Children and Families Safe Act of 2003 (Public Law 108-36), the department of human services shall implement and operate a statewide program relating to child abuse and neglect that includes:

(1) Policies and procedures, including but not limited to appropriate referrals to child protective service systems and other appropriate services, to address the needs of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, including a requirement that health care providers involved in the delivery or care of an affected infant notify child protective services of the occurrence of the condition in the infant; provided that the notification shall not be

construed to require criminal prosecution for any illegal action;

(2) Development of a plan of safe care for the infant born and identified as being affected by illegal substance abuse or withdrawal symptoms; and

(3) Triage procedures for the appropriate referral to a community organization or voluntary preventive service for a child who is not at-risk of imminent harm and for the child's family.

(b) The department of human services, under the Keeping Children and Families Safe Act of 2003 and subsequent federal laws, shall:

(1) Seek available federal grants and prepare and submit a state plan for the purposes thereof;

(2) Ensure that federal reporting requirements are adhered to; and

(3) Adopt rules pursuant to chapter 91 necessary to obtain grants.

HRS § 709-903.5 (2007)

[§ 709-903.5.] 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 ingest methamphetamine.

(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.

HRS § 709-904 (2007)

§ 709-904. 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 ingest methamphetamine.

(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.

#### HRS § 350-1 (2007)

##### § 350-1. Definitions.

For the purposes of this chapter, unless the context specifically indicates otherwise:

"Child abuse or neglect" means the acts or omissions of any person who, or legal entity which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child's care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed. The acts or omissions are indicated for the purposes of reports by circumstances that include but are not limited to:

(5) When the child is provided with dangerous, harmful, or detrimental drugs as defined by section 712-1240; provided that this paragraph shall not apply when such drugs are provided to the child pursuant to the direction or prescription of a practitioner, as defined in section 712-1240.

#### **IDAHO**

#### Idaho Code § 37-2737A (2007)

##### § 37-2737A. Manufacture or delivery of controlled substance where children are present

(1) Except as authorized in this chapter, it is unlawful for any person to manufacture or deliver, or possess with the intent to manufacture or deliver, a controlled substance as defined in schedules I, II, III and IV in this chapter, upon the same premises where a child under the age of eighteen (18) years is present.

(3) Except as provided in subsection (4) of this section, a person who violates the

provisions of this section shall be guilty of a felony and upon conviction may be imprisoned for a term not to exceed five (5) years, fined not more than five thousand dollars (\$ 5,000), or be both so imprisoned and fined.

(4) A person who violates the provisions of this section by manufacturing or delivering, or possessing with the intent to manufacture or deliver, methamphetamine or amphetamine in quantities as specified in [section 37-2732B\(a\)\(4\), Idaho Code](#), shall be guilty of a felony and upon conviction may be imprisoned for a term of up to ten (10) years, fined not more than twenty-five thousand dollars (\$ 25,000), or be both so imprisoned and fined.

(5) Any fine imposed under the provisions of this section shall be in addition to the fine imposed for any other offense, and any term of imprisonment shall be consecutive to any term imposed for any other offense, regardless of whether the violation of the provisions of this section and any of the other offenses have arisen from the same act or transaction.

## ILLINOIS

### § 720 ILCS 5/12-4.10

§ 12-4.10. Drug related child endangerment [Repealed by ♦ [P.A. 94-556](#), § 1056, effective September 11, 2005]

### 325 ILCS 5/3 (2007)

## CHILDREN ABUSED AND NEGLECTED CHILD REPORTING ACT

§ 325 ILCS 5/3. [Definitions]

Sec. 3. As used in this Act unless the context otherwise requires:

Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

(g) causes to be sold, transferred, distributed, or given to such child under 18 years of age, a controlled substance as defined in Section 102 of the Illinois Controlled Substances Act [[720 ILCS 570/102](#)] in violation of Article IV of the Illinois Controlled Substances Act [[720 ILCS 570/401](#) et seq.] or in violation of the Methamphetamine Control and Community Protection Act [[720 ILCS 646/1](#) et seq.], except for controlled substances that are prescribed in accordance with Article III of the Illinois Controlled Substances Act [[720 ILCS 570/301](#) et seq.] and are dispensed to such child in a manner that substantially complies with the prescription.

“Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of the present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support or medical or other remedial care recognized under State law as necessary for a child's well-being, or other care necessary for his or

her well-being. . . or who is a newborn infant whose blood, urine, or meconium contains any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act [720 ILCS 570/102] or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or the newborn infant.

2005 ILL. ALS 556 (2007)

## Section 1.Methamphetamine Control and Community Protection Act.

[\*5] Section 5. Purpose. The purpose of this Act is to reduce the damage that the manufacture, distribution, and use of methamphetamine are inflicting on children, families, communities, businesses, the economy, and the environment in Illinois. The General Assembly recognizes that methamphetamine is fundamentally different from other drugs regulated by the Illinois Controlled Substances Act because the harms relating to methamphetamine stem not only from the distribution and use of the drug, but also from the manufacture of the drug in this State. Because methamphetamine is not only distributed and used but also manufactured here, and because the manufacture of methamphetamine is extremely and uniquely harmful, the General Assembly finds that a separate Act is needed to address the manufacture, distribution, and use of methamphetamine in Illinois.

### Section 15. Participation in methamphetamine manufacturing.

(1) It is unlawful to engage in aggravated participation in the manufacture of methamphetamine. A person engages in aggravated participation in the manufacture of methamphetamine when the person violates paragraph (1) of subsection (a) and:

(B) the person knowingly does so in a structure or vehicle where a child under the age of 18, a person with a disability, or a person 60 years of age or older who is incapable of adequately providing for his or her own health and personal care resides, is present, or is endangered by the manufacture of methamphetamine;

(C) the person does so in a structure or vehicle where a woman the person knows to be pregnant (including but not limited to the person herself) resides, is present, or is endangered by the methamphetamine manufacture;

(a) A person commits the offense of drug related child endangerment when he or she endangers the life and health of a child by knowingly exposing the child to a clandestine drug laboratory environment by performing any of the following acts: (1) producing, manufacturing, or preparing a controlled substance; or (2) producing, manufacturing, or preparing an ingredient required to manufacture a controlled substance; or (3) storing chemicals used in the controlled substance manufacturing process in a structure to which the child has access; or (4) storing contaminated apparatus used in the controlled substance manufacturing process in a structure to which the child has access; or (5) storing chemical waste and other by-products created during the controlled substance manufacturing process in a structure to which the child has access; or

(6) storing any device used for the ingestion of controlled substances in a structure to which the child has access.

(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.

**INDIANA**

IC 34-24-4-1 (2007)

Liability of person participating in illegal drug market; exception for law enforcement investigations

Sec. 1. (a) A person who knowingly participates in the illegal drug market in Indiana is liable for civil damages as provided in this chapter.

(b) A person may recover damages under this chapter for an injury that results from an individual's use of an illegal drug.

(c) A law enforcement officer or agency, the state, or a person acting at the direction of a law enforcement officer or agency or the state is not liable for participating in the illegal drug market if the participation is to further an official investigation.

*As added by P.L.1-1998, SEC.19.*

IC 34-24-4-2 (2007)

Parties plaintiff

Sec. 2. The following persons may bring an action for damages caused by an individual drug user's use of an illegal drug:

(A) parent;

(B) legal guardian;

- (C) child;
  - (D) spouse; or
  - (E) sibling;
- of the individual drug user.
- (2) An individual who was exposed to an illegal drug in utero.
  - (3) An employer of the individual drug user.
  - (4) A medical facility, insurer, governmental entity, employer, or other entity that:
    - (A) funds a drug treatment program or employee assistance program for the individual drug user; or
    - (B) otherwise expends money on behalf of the individual drug user.
  - (5) A person injured as a result of the willful, reckless, or negligent actions of an individual drug user.
  - (6) Any neighborhood association registered with the municipal governing body, the official geographic boundaries of which encompass the location of the complained-of illegal drug dealing or use.

As added by P.L.1-1998, SEC.19.

IC 31-34-1-10; 31-34-1-11 (2006)

Except as provided in statute, a child is a "child in need of services" if:  
 The child is born with fetal alcohol syndrome; or any amount, including a trace amount, of a controlled substance or a legend drug in the child's body.  
 The child has an injury; has abnormal physical or psychological development; or is at a substantial risk of a life-threatening condition that arises or is substantially aggravated because the child's mother used alcohol, a controlled substance, or a legend drug during pregnancy. The child needs care, treatment, or rehabilitation that the child is not receiving or is unlikely to be provided or accepted without the coercive intervention of the court.

IC 31-34-1-2 (2006)

A child is a "child in need of services" if before the child becomes 18 years of age:  
 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.  
 The child needs care, treatment, or rehabilitation that the child is not receiving and is unlikely to be provided or accepted without the coercive intervention of the court.  
 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.

**IOWA**

Iowa Code § 726.6 (2006)

726.6 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:

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.

Iowa Code § 232.2 (2006)

6. "*Child in need of assistance*" means an unmarried child:

(1) Mental injury caused by the acts of the child's parent, guardian, or custodian.

(2) The failure of the child's parent, guardian, custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.

m. Who is in need of treatment to cure or alleviate chemical dependency and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.

n. Whose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care.

o. In whose body there is an illegal drug present as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian. The presence of the drug shall be determined in accordance with a medically relevant test as defined in section 232.73.

p. Whose parent, guardian, or custodian does any of the following: unlawfully manufactures a dangerous substance in the presence of a child, knowingly allows such manufacture by another person in the presence of a child, or in the presence of a child possesses a product containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, with the intent to use the product as a precursor or an intermediary to a dangerous substance.

(1) For the purposes of this paragraph, "*in the presence of a child*" means the physical presence of a child during the manufacture or possession, the manufacture or possession occurred in a child's home, on the premises, or in a motor vehicle located on the premises, or the manufacture or possession occurred under other circumstances in which a reasonably prudent person would know that the manufacture or possession may be seen, smelled, or heard by a child.

Iowa Code § 232.77 (2006)

2. If a health practitioner discovers in a child physical or behavioral symptoms of the effects of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, which were not prescribed by a health practitioner, or if the health practitioner has determined through examination of the

natural mother of the child that the child was exposed in utero, the health practitioner may perform or cause to be performed a medically relevant test, as defined in section 232.73, on the child. The practitioner shall report any positive results of such a test on the child to the department. The department shall begin an assessment pursuant to section 232.71B upon receipt of such a report. A positive test result obtained prior to the birth of a child shall not be used for the criminal prosecution of a parent for acts and omissions resulting in intrauterine exposure of the child to an illegal drug.

Iowa Code § 232.68 (2006)

232.68 Definitions.

The definitions in section 235A.13 are applicable to this part 2 of division III. As used in sections 232.67 through 232.77 and 235A.12 through 235A.24, unless the context otherwise requires:

2. "Child abuse" or "abuse" means:

f. An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child.

g. The person responsible for the care of a child has, in the presence of the child, as defined in section 232.2, subsection 6, paragraph "p", manufactured a dangerous substance, as defined in section 232.2, subsection 6, paragraph "p", or in the presence of the child possesses a product containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, with the intent to use the product as a precursor or an intermediary to a dangerous substance.

**KANSAS**

K.S.A. § 21-3608a (2006)

21-3608a. Aggravated endangering a child.

(3) causing or permitting such child to be in an environment where a person is selling, offering for sale or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture or attempt to manufacture any methamphetamine as defined by subsection (d)(3) or (f)(1) of [K.S.A. 65-4107](#), and amendments thereto; or

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

(b) Aggravated endangering a child is a severity level 9, person felony.

**KENTUCKY**

**KRS § 600.020 (2006)**

600.020. Definitions for KRS Chapters 600 to 645.

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

(c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in [KRS 222.005](#);

**KRS § 600.020 (2006)**

600.020. Definitions for KRS Chapters 600 to 645.

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

(c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in [KRS 222.005](#);

KRS § 214.160 (2006)

214.160. Blood specimen of pregnant women to be taken - Laboratory test - Substance abuse tests of pregnant women and newborn infants - Use of tests - Test for presence of hepatitis B.

(2) The Cabinet for Health and Family Services shall, as often as necessary, publish a list of the five (5) most frequently abused substances, including alcohol, by pregnant women in the Commonwealth. Any physician and any other person legally permitted to engage in attendance upon a pregnant woman in this state may perform a screening for alcohol or substance dependency or abuse, including a comprehensive history of such behavior. Any physician may administer a toxicology test to a pregnant woman under the physician's care within eight (8) hours after delivery to determine whether there is evidence that she has ingested alcohol, a controlled substance, or a substance identified on the list provided by the cabinet, or if the woman has obstetrical complications that are a medical indication of possible use of any such substance for a nonmedical purpose.

(3) Any physician or person legally permitted to engage in attendance upon a pregnant woman may administer to each newborn infant born under that person's care a toxicology test to determine whether there is evidence of prenatal exposure to alcohol, a controlled

substance, or a substance identified on the list provided by the Cabinet for Health and Family Services, if the attending person has reason to believe, based on a medical assessment of the mother or the infant, that the mother used any such substance for a nonmedical purpose during the pregnancy.

(4) The circumstances surrounding any positive toxicology finding shall be evaluated by the attending person to determine if abuse or neglect of the infant, as defined under [KRS 600.020\(1\)](#), has occurred and whether investigation by the Cabinet for Health and Family Services is necessary.

(5) No prenatal screening for alcohol or other substance abuse or positive toxicology finding shall be used as prosecutorial evidence.

(6) No person shall conduct or cause to be conducted any toxicological test pursuant to this section on any pregnant woman without first informing the pregnant woman of the purpose of the test.

## **LOUISIANA**

La. R.S. 14:92.1 (2007)

§ 14:92.1. Encouraging or contributing to child delinquency, dependency, or neglect; penalty; suspension of sentence; definitions

A. (1) In all cases where any child shall be a delinquent, dependent, or neglected child, as defined in the statutes of this state or by this Section, irrespective of whether any former proceedings have been had to determine the status of such child, the parent or parents, legal guardian, or any person having the custody of such child, or any other person or persons who shall by any act encourage, cause, or contribute to the dependency or delinquency of such child, or who acts in conjunction with such child in the acts which cause such child to be dependent or delinquent, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for not more than six months, or by both fine and imprisonment.

B. By the term "delinquency", as used in this section, is meant any act which tends to debase or injure the morals, health or welfare of a child; drinking beverages of low alcoholic content or beverages of high alcoholic content; the use of narcotics, going into or remaining in any bawdy house, assignation house, disorderly house or road house, hotel, public dance hall, or other gathering place where prostitutes, gamblers or thieves are permitted to enter and ply their trade; or associating with thieves and immoral persons, or enticing a minor to leave home or to leave the custody of its parents, guardians or persons standing in lieu thereof, without first receiving the consent of the parent, guardian, or other person; or begging, singing, selling any article; or playing any musical instrument in any public place for the purpose of receiving alms; or habitually trespassing where it is recognized he has no right to be; or using any vile, obscene, or

indecent language; or performing any sexually immoral act; or violating any law of the state ordinance of any village, town, city, or parish of the state.

La. R.S. 14:93 (2007)

§ 14:93. Cruelty to juveniles

A. Cruelty to juveniles is:

(1) The intentional or criminally negligent mistreatment or neglect by anyone seventeen years of age or older of any child under the age of seventeen whereby unjustifiable pain or suffering is caused to said child. Lack of knowledge of the child's age shall not be a defense; or

(2) The intentional or criminally negligent exposure by anyone seventeen years of age or older of any child under the age of seventeen to a clandestine laboratory operation as defined by [R.S. 40:983](#) in a situation where it is foreseeable that the child may be physically harmed. Lack of knowledge of the child's age shall not be a defense.

La. R.S. 14:93.2.3 (2007)

§ 14:93.2.3. Second degree cruelty to juveniles

A. (1) Second degree cruelty to juveniles is the intentional or criminally negligent mistreatment or neglect by anyone over the age of seventeen to any child under the age of seventeen which causes serious bodily injury or neurological impairment to that child.  
C. Whoever commits the crime of second degree cruelty to juveniles shall be imprisoned at hard labor for not more than forty years.

La. Ch.C. Art. 603 (2007)

Art. 603. Definitions

As used in this Title:

(1) "Abuse" means any one of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:

(a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.

Commentary:

2006.

(b) It is estimated by the National Institute on Drug Abuse that as many as 221,000 children are exposed annually to illicit drugs during gestation. S. Christian, Substance-Exposed Newborns: New Federal Law Raises Some Old Issues, National Conference of State Legislatures (2004)(<http://www.ncsl.org/programs/cyf/newbornintro.htm>). In

response, Congress enacted "The Keeping Children and Families Safe Act of 2003" (2003 P.L. 108-36, [42 U.S.C. § 5106A](#)), which became part of "The Child Abuse Prevention and Treatment Act." The new law requires states to have policies and procedures that mandate health care providers to notify public child welfare agencies about "infants born and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure." This law does not require the reporting of children exposed during gestation to legal but harmful substances such as tobacco or alcohol. States must develop a "plan of safe care" for these infants.

## **MAINE**

### Title 17-A, § 554 (2007)

#### 554 Endangering the welfare of a child

1. A person is guilty of endangering the welfare of a child if that person:
  - 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.
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; [1991, c. 672, §2 (amd).]
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.

[2001, c. 429, §3 (amd).]

### 22 M.R.S. § 4004-B (2006)

#### § 4004-B. Infants born affected by substance abuse or after prenatal exposure to drugs

The department shall act to protect infants born identified as being affected by illegal substance abuse or suffering from withdrawal symptoms resulting from prenatal drug exposure, whether or not the prenatal exposure was to legal or illegal drugs, regardless of whether or not the infant is abused or neglected. The department shall:

1. **RECEIVE REPORTS.** Receive reports of infants who may be affected by illegal substance abuse or suffering from withdrawal symptoms resulting from prenatal drug exposure;
2. **INVESTIGATE.** Promptly investigate all reports received of infants born who may be affected by illegal substance abuse or suffering from withdrawal symptoms resulting from prenatal drug exposure;

3. DETERMINE IF INFANT IS AFFECTED. Determine whether or not each infant reported is affected by illegal substance abuse or suffers from withdrawal symptoms resulting from prenatal drug exposure;

4. DETERMINE IF INFANT IS ABUSED OR NEGLECTED. Determine whether or not the infant is abused or neglected and, if so, determine the degree of harm or threatened harm in each case;

5. DEVELOP PLAN FOR SAFE CARE. For each infant whom the department determines to be affected by illegal substance abuse or to be suffering from withdrawal symptoms resulting from prenatal drug exposure, develop, with the assistance of any health care provider involved in the mother's or the child's medical or mental health care, a plan for the safe care of the infant and, in appropriate cases, refer the child or mother or both to a social service agency or voluntary substance abuse prevention service; and

6. COMPLY WITH SECTION 4004. For each infant whom the department determines to be abused or neglected, comply with section 4004, subsection 2, paragraphs E and F.

**MARYLAND**

Md. Crts. & Jud. Proc. Code Ann. § 3-818

Within 1 year after a child's birth, there is a presumption that a child is not receiving proper care and attention from the mother for purposes of § 3-801(f)(2) of this subtitle if:

- The child was born exposed to cocaine, heroin, or a derivative of cocaine or heroin as evidenced by any appropriate tests of the mother or child ; or
- Upon admission to a hospital for delivery of the child, the mother tested positive for cocaine, heroin, or a derivative of cocaine or heroin as evidenced by any appropriate toxicology test; and
- Drug treatment is made available to the mother and the mother refuses the recommended level of drug treatment, or does not successfully complete the recommended level of drug treatment

Md. FAMILY LAW Code Ann. § 5-710 (2007)

§ 5-710. Actions by local department and State's Attorney's office

(a) Local department -- In general. -- Based on its findings and treatment plan, the local department shall render the appropriate services in the best interests of the child, including, when indicated, petitioning the juvenile court on behalf of the child for appropriate relief, including the added protection to the child that either commitment or custody would provide.

(b) Local department -- Maternal drug abuse. --

(1) Promptly after receiving a report from a hospital or health practitioner of suspected neglect related to drug abuse and conducting an appropriate investigation, the local department may:

- (i) file a petition alleging that the child is in need of assistance under Title 3, Subtitle 8 of the Courts Article; and
- (ii) offer the mother admission into a drug treatment program.

(2) The local department may initiate a judicial proceeding to terminate a mother's parental rights, if the local department offers the mother admission into a drug treatment program under this subsection within 90 days after the birth of the child and the mother.

Md. FAMILY LAW Code Ann. § 5-706.3 (2007)

§ 5-706.3. Intervention

(a) Intervention systems. -- The Department of Human Resources, in cooperation with the Department of Health and Mental Hygiene, shall develop intervention systems in at least four counties designated by the Secretary of Human Resources that:

(1) include drug treatment for a mother of a child who is born drug exposed and supportive services for the family of the child; and

(2) serve 300 families.

(b) Initiation of intervention. -- An intervention shall be initiated when:

(1) a child is born drug exposed; and

(2) medical personnel have determined that the child is at a high risk of abuse or neglect.

**MASSACHUSETTS**

ALM GL ch. 265, § 13L (2005)

§ 13L. Reckless Endangerment of Children.

Whoever wantonly or recklessly engages in conduct that creates a substantial risk of serious bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to alleviate such risk where there is a duty to act shall be punished by imprisonment in the house of correction for not more than 2 1/2 years. For the purposes of this section, such wanton or reckless behavior occurs when a person is aware of and consciously disregards a substantial and unjustifiable risk that his acts, or omissions where there is a duty to act, would result in serious bodily injury or sexual abuse to a child. The risk must be of such nature and degree that disregard of the risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

"Serious bodily injury", bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial risk of death.

ALM GL ch. 119, § 51A (2007)

§ 51A. Persons Required to Report Cases of Injured, Abused, or Neglected Children; Immunity; Privilege; Penalty.

Any physician. . . or any person paid to care for or work with a child in any public or private facility, or home or program funded by the commonwealth or licensed pursuant to the provisions of chapter twenty-eight A. . . which provides . . . services of child care resource and referral agencies. . . who, in his professional capacity shall have reasonable cause to believe that a child under the age of eighteen years is suffering physical or emotional injury resulting from abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare including sexual abuse, or from neglect, including malnutrition, or who is determined to be physically dependent upon an addictive drug at birth, shall immediately report such condition to the department by oral communication and by making a written report within forty-eight hours after such oral communication; provided, however, that whenever such person so required to report is a member of the staff of a medical or other public or private institution, school or facility, he shall immediately either notify the department or notify the person in charge of such institution, school or facility, or that person's designated agent, whereupon such person in charge or his said agent shall then become responsible to make the report in the manner required by this section. Any such hospital personnel preparing such report, may take, or cause to be taken, photographs of the areas of trauma visible on a child who is the subject of such report without the consent of the child's parents or guardians. All such photographs or copies thereof shall be sent to the department together with such report. Any such person so required to make such oral and written reports who fails to do so shall be punished by a fine of not more than one thousand dollars. Any person who knowingly files a report of child abuse that is frivolous shall be punished by a fine of not more than one thousand dollars.

## **MICHIGAN**

MCLS § 722.623a (2007)

§ 722.623a. Knowledge or suspicion of alcohol, controlled substance, or metabolite of controlled substance in body of newborn infant; report required; exception.

Sec. 3a. In addition to the reporting requirement in section 3, a person who is required to report suspected child abuse or neglect under section 3(1) and who knows, or from the child's symptoms has reasonable cause to suspect, that a newborn infant has any amount of alcohol, a controlled substance, or a metabolite of a controlled substance in his or her body shall report to the department in the same manner as required under section 3. A report is not required under this section if the person knows that the alcohol, controlled

substance, or metabolite, or the child's symptoms, are the result of medical treatment administered to the newborn infant or his or her mother.

## **MINNESOTA**

Minn. Stat. § 609.378 (2004)

§ 609.378 Neglect or endangerment of a child

(b) Endangerment. 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, or 152.024; 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.

Minn. Stat. § 626.5562 (2006)

### **626.5562 TOXICOLOGY TESTS REQUIRED**

Subdivision 1. Test; report.

A physician shall administer a toxicology test to a pregnant woman under the physician's care or to a woman under the physician's care within eight hours after delivery to determine whether there is evidence that she has ingested a controlled substance, if the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose. If the test results are positive, the physician shall report the results under section 626.5561. A negative test result does not eliminate the obligation to report under section 626.5561, if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

Subd. 2. Newborns.

A physician shall administer to each newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance, if the physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy. If the test results are positive, the physician shall report the results as neglect under section 626.556. A negative test result does not eliminate the obligation to report under section 626.556 if other medical evidence of prenatal exposure to a controlled substance is present.

Minn. Stat. § 626.5561 (2006)

**626.5561 REPORTING OF PRENATAL EXPOSURE TO CONTROLLED SUBSTANCES**

**Subdivision 1. Reports required.**

A person mandated to report under section 626.556, subdivision 3, shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy. Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy. An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the local welfare agency. Any report shall be of sufficient content to identify the pregnant woman, the nature and extent of the use, if known, and the name and address of the reporter.

**Subd. 2. Local welfare agency.**

If the report alleges a pregnant woman's use of a controlled substance for a nonmedical purpose, the local welfare agency shall immediately conduct an appropriate assessment and offer services indicated under the circumstances. Services offered may include, but are not limited to, a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care. The local welfare agency may also take any appropriate action under chapter 253B, including seeking an emergency admission under section 253B.05. The local welfare agency shall seek an emergency admission under section 253B.05 if the pregnant woman refuses recommended voluntary services or fails recommended treatment.

**MISSISSIPPI**

Miss. Code Ann. § 41-29-313 (2007)

§ 41-29-313. Purchase, possession, transfer, manufacture or distribution of listed chemical or drug with intent to unlawfully manufacture controlled substance prohibited; possession of anhydrous ammonia in unauthorized container constitutes prima facie evidence of intent to unlawfully manufacture controlled substance; purchase, possession, transfer or distribution of certain quantities of ephedrine and pseudoephedrine prohibited; rebuttable presumption of intent to manufacture for person in possession of certain quantities of ephedrine or pseudoephedrine; enhanced penalties for certain violations

(5) Any person who violates the provisions of this section with children under the age of eighteen (18) years present may be subject to a term of imprisonment or a fine, or both, of twice that provided in this section.

## MISSOURI

### § 568.045 R.S.Mo. (2007)

#### § 568.045. Endangering the welfare of a child in the first degree, penalties

1. A person commits the crime of endangering the welfare of a child in the first degree if:

(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; 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, RSMo;

(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 less than seventeen years of age or in a residence where a person less than seventeen years of age resides, unlawfully manufactures, or attempts to manufacture compounds, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.

2. Endangering the welfare of a child in the first degree is a class C felony unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class B felony.

### § 568.050 R.S.Mo. (2007)

#### § 568.050. Endangering the welfare of a child in the second degree

1. A person commits the crime of endangering the welfare of a child in the second degree if:

(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; or

(2) He or she knowingly encourages, aids or causes a child less than seventeen years old 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, RSMo](#); 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 recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him 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, RSMo](#); 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, RSMo](#); or

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

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. 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, in which case the crime is a class D felony.

§ 191.737 R.S.Mo. (2007)

§ 191.737. Children exposed to substance abuse, referral by physician to department of health and senior services -- services to be initiated within seventy-two hours -- physician making referral immune from civil liability -- confidentiality of report

1. Notwithstanding the physician-patient privilege, any physician or health care provider may refer to the department of health and senior services families in which children may have been exposed to a controlled substance listed in [section 195.017, RSMo](#), schedules I, II and III, or alcohol as evidenced by:

(1) Medical documentation of signs and symptoms consistent with controlled substances or alcohol exposure in the child at birth; or

(2) Results of a confirmed toxicology test for controlled substances performed at birth on the mother or the child; and

(3) A written assessment made or approved by a physician, health care provider, or by

the division of family services which documents the child as being at risk of abuse or neglect.

2. Nothing in this section shall preclude a physician or other mandated reporter from reporting abuse or neglect of a child as required pursuant to the provisions of [section 210.115, RSMo.](#)

## **MONTANA**

Mont. Code Anno., § 45-5-622 (2005)

45-5-622 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

Mont. Code Anno., § 41-3-102 (2005)

41-3-102 Definitions.

(7) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare; or

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by [45-](#)

9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132.

## **NEBRASKA**

R.R.S. Neb. § 43-292 (2007)

§ 43-292. Termination of parental rights; grounds

The court may terminate all parental rights between the parents or the mother of a juvenile born out of wedlock and such juvenile when the court finds such action to be in the best interests of the juvenile and it appears by the evidence that one or more of the following conditions exist:

(4) The parents are unfit by reason of debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior, which conduct is found by the court to be seriously detrimental to the health, morals, or well-being of the juvenile;

## **NEVADA**

Nev. Rev. Stat. Ann. § 200.508 (2007)

200.508. Abuse, neglect or endangerment of child: Penalties; definitions.

1. A person who willfully causes a child who is less than 18 years of age 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.

Nev. Rev. Stat. Ann. § 432B.330 (2007)

432B.330. Circumstances under which child is or may be in need of protection.

4. A child may be in need of protection if he is identified as being affected by prenatal illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure.

## **NEW HAMPSHIRE**

RSA 639:3 (2007)

639:3 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.

## **NEW JERSEY**

## **NEW MEXICO**

## **NEW YORK**

NY CLS Penal § 260.10 (2007)

### § 260.10. Endangering the welfare of a child

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

1. He 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 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 fails or refuses to exercise reasonable diligence in the control of such child to prevent him 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.

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

NY CLS Soc Serv § 371 (2007)

4-a. "Neglected child" means a child less than eighteen years of age

(i) whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care

(B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as set forth in paragraph (i) of this subdivision; or

(ii) who has been abandoned by his parents or other person legally responsible for his care.

## **NORTH CAROLINA**

N.C. Gen. Stat. § 15A-1340.16 (2007)

### § 15A-1340.16. Aggravated and mitigated sentences

[When imposing a sentence upon conviction of a crime,] the court shall consider evidence of aggravating or mitigating factors present in the offense that make an aggravated or mitigated sentence appropriate, but the decision to depart from the presumptive range is in the discretion of the court. An aggravated or mitigated sentence is allowed if the jury...or the court finds that aggravating factors exist or the court finds that mitigating factors exist, the court may depart from the presumptive range of sentences specified in § 15A-1340.17(c)(2). If aggravating factors are present and the court determines they are sufficient to outweigh any mitigating factors that are present, it may impose a sentence that is permitted by the aggravated range described in [the chart of punishments in] § 15A-1340.17(c)(4). If the court finds that mitigating factors are present and are sufficient to outweigh any aggravating factors that are present, it may impose a sentence that is permitted by the mitigated range described in § 15A-1340.17(c)(3).  
Aggravating factors include:

The offense involved the sale or delivery of a controlled substance to a minor.

The offense is the manufacture of methamphetamine and was committed where a person under the age of 18 lives, was present, or was otherwise endangered by exposure to the drug, its ingredients, its by-products, or its waste.

## **NORTH DAKOTA**

N.D. Cent. Code, § 19-03.1-22.2 (2007)

19-03.1-22.2. Endangerment of child or vulnerable adult.

1. For purposes of this section:

a. "Chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors or to manufacturing equipment.

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

c. "Controlled substance" means the same as that term is defined in section 19-03.1-01, except the term does not include less than one-half ounce of marijuana.

d. "Drug paraphernalia" means the same as that term is defined in section 19-03.4-01.

e. "Prescription" means the same as that term is described in section 19-03.1-22.

f. "Vulnerable adult" means either a disabled adult or vulnerable elderly adult as those terms are defined in section 12.1-31-07.

2. Unless a greater penalty is otherwise provided by law, a person who knowingly or

intentionally causes or permits a child or vulnerable adult to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug paraphernalia as defined in subsection 1, is guilty of a class C felony.

3. Unless a greater penalty is otherwise provided by law, a person who violates subsection 2, and a child or vulnerable adult actually suffers bodily injury by exposure to, ingestion of, inhalation of, or contact with a controlled substance, chemical substance, or drug paraphernalia, is guilty of a class B felony unless the exposure, ingestion, inhalation, or contact results in the death of the child or vulnerable adult, in which case the person is guilty of a class A felony.

4. It is an affirmative defense to a violation of this section that the controlled substance was provided by lawful prescription for the child or vulnerable adult and that it was administered to the child or vulnerable adult in accordance with the prescription instructions provided with the controlled substance.

N.D. Cent. Code, § 27-20-02 (2007)

27-20-02. Definitions.

8. "Deprived child" means a child who:

f. Was subject to prenatal exposure to chronic and severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner; or

g. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2.

N.D. Cent. Code, § 50-25.1-17 (2007)

50-25.1-17. Toxicology testing - Requirements.

2. If a physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy, the physician shall administer, without the consent of the child's parents or guardian, to the newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance. If the test results are positive, the physician shall report the results as neglect under section 50-25.1-03. A negative test result does not eliminate the obligation to report under section 50-25.1-03 if other medical evidence of prenatal exposure to a controlled substance is present.

3. A physician or any other medical personnel administering a toxicology test to determine the presence of a controlled substance in a pregnant woman, in a woman within eight hours after delivery, or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test if the

physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with an established protocol and reasonable medical practice. A physician or any other medical personnel who determines in good faith not to administer a toxicology test under this section is immune from liability for not administering the test.

N.D. Cent. Code, § 27-20-02 (2007)

27-20-02. Definitions.

As used in this chapter:

"Deprived child" means a child who:

f. Was subject to prenatal exposure to chronic and severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner; or

g. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2.

## **OHIO**

ORC Ann. 2919.22 (2007)

§ 2919.22. 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:

(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.

## **OKLAHOMA**

21 Okl. St. § 852.1 (2006)

§ 852.1. 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 7001-1.3 of Title 10 of the Oklahoma Statutes](#), commits child endangerment when the person knowingly permits physical or sexual abuse of a child or who 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](#). However, it is an affirmative defense to this paragraph if the person had a reasonable apprehension that any action to stop the abuse would result in substantial bodily harm to the person or the child.

10 Okl. St. § 7103 (2006)

§ 7103. Reporting of abuse or neglect or birth of chemically-dependent child--Retaliation by employer--Contents of report--Violations--Spiritual treatment of child through prayer

A. 1. Every:

- a. physician or surgeon, including doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, examining, attending or treating a child under the age of eighteen (18) years,
- b. registered nurse examining, attending or treating such a child in the absence of a physician or surgeon,
- c. teacher of any child under the age of eighteen (18) years, and
- d. other person

having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect, shall report the matter promptly to the Department of Human Services. Such reports may be made by telephone, in writing, personally or by any other method prescribed by the Department. Any report of abuse or neglect made pursuant to this section shall be made in good faith.

2. Every physician or surgeon, including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child who tests positive for alcohol or a controlled dangerous substance shall promptly report the matter to the Department of Human Services.

**OREGON**

ORS 163.547 (2005)

(1)(a) A person having custody or control of a child under 16 years of age commits the

crime of child neglect in the first degree if the person knowingly leaves the child, or allows the child to stay:

(A) In a vehicle where controlled substances are being criminally delivered or manufactured; (B) [On] In or upon premises and in the immediate proximity where controlled substances are criminally delivered or manufactured for consideration or profit or where a chemical reaction involving one or more precursor substances. (2) Child neglect in the first degree is a Class B felony.

(3) Subsection (1) of this section does not apply if the controlled substance is marijuana and is delivered for no consideration.

(4) The Oregon Criminal Justice Commission shall classify child neglect in the first degree as crime category 6 of the sentencing guidelines grid of the commission if the controlled substance being delivered or manufactured is methamphetamine.

#### ORS § 419B.005 (2005)

#### 419B.005. Definitions.

As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a substantial risk of harm to the child's health or safety.

#### **PENNSYLVANIA**

#### 18 Pa.C.S. § 4304 (2006)

#### § 4304. 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.

35 P.S. § 780-113 (2006)

§ 780-113. Prohibited acts; penalties

(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

(38) The unlawful manufacture of methamphetamine or phencyclidine or their salts, isomers and salts of isomers, whenever the existence of such salts, isomers or salts of isomers is possible within the specific chemical designation:

(i) in a structure where any child under 18 years of age is present;  
or

(ii) where the manufacturing of methamphetamine or phencyclidine causes any child under 18 years of age to suffer bodily injury.

**RHODE ISLAND**

R.I. Gen. Laws § 40-11-2 (2007)

§ 40-11-2. Definitions

When used in this chapter and unless the specific context indicates otherwise:

(1) "Abused and/or neglected child" means a child whose physical or mental health or welfare is harmed or threatened with harm when his or her parent or other person responsible for his or her welfare:

(8) "Mental injury" includes a state of substantially diminished psychological or intellectual functioning in relation to, but not limited to, such factors as: failure to thrive; ability to think or reason; control of aggressive or self-destructive impulses; acting-out or misbehavior, including incorrigibility, ungovernability, or habitual truancy; provided, however, that the injury must be clearly attributable to the unwillingness or inability of the parent or other person responsible for the child's welfare to exercise a minimum degree of care toward the child.

## **SOUTH CAROLINA**

S.C. Code Ann. § 20-7-736 (2006)

§ 20-7-736. Jurisdiction of family court under article; removal proceedings; procedures.

(G) It is presumed that a newborn child is an abused or neglected child as defined in [Section 20-7-490](#) and that the child cannot be protected from further harm without being removed from the custody of the mother upon proof that:

(1) a blood or urine test of the child at birth or a blood or urine test of the mother at birth shows the presence of any amount of a controlled substance or a metabolite of a controlled substance unless the presence of the substance or the metabolite is the result of medical treatment administered to the mother of the infant or the infant, or

(2) the child has a medical diagnosis of fetal alcohol syndrome; and

(3) a blood or urine test of another child of the mother or a blood or urine test of the mother at the birth of another child showed the presence of any amount of a controlled substance or a metabolite of a controlled substance unless the presence of the substance or the metabolite was the result of medical treatment administered to the mother of the infant or the infant, or

(4) another child of the mother has the medical diagnosis of fetal alcohol syndrome.

This presumption may be rebutted by proof that the father or another adult who will assume the role of parent is available and suitable to provide care for the child in the home of the mother. The father or the other adult must be made a party to the action and subject to the court's order establishing the conditions for maintaining the child in the mother's home. This statutory presumption does not preclude the court from ordering removal of a child upon other proof of alcohol or drug abuse or addiction by the parent or person responsible for the child who has harmed the child or threatened the child with harm.

(H) The petition for removal may include a petition for termination of parental rights.

## **SOUTH DAKOTA**

D. Codified Laws § 26-8A-2 (2007)

§ 26-8A-2. Abused or neglected child

In this chapter and chapter 26-7A, the term, abused or neglected child, means a child:  
(7) Who has sustained emotional harm or mental injury as indicated by an injury to the child's intellectual or psychological capacity evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture;

(9) Who was subject to prenatal exposure to abusive use of alcohol or any controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 34-20B; or

(10) Whose parent, guardian, or custodian knowingly exposes the child to an environment that is being used for the manufacture, use, or distribution of methamphetamines or any other unlawfully manufactured controlled drug or substance.

## **TENNESSEE**

Tenn. Code Ann. § 37-1-102 (2007)

37-1-102. Chapter definitions.

(a) As used in this chapter, any reference to the department of correction is construed to mean the department of children's services, unless the reference is clearly intended to designate the department of correction.

(b) As used in this part, unless the context otherwise requires:

(1) "Abuse" exists when a person under the age of eighteen (18) is suffering from, has sustained, or may be in immediate danger of suffering from or sustaining a wound, injury, disability or physical or mental condition caused by brutality, neglect or other actions or inactions of a parent, relative, guardian or caretaker;

(21) "Severe child abuse" means:

(A) The knowing exposure of a child to or the knowing failure to protect a child from abuse or neglect that is likely to cause great bodily harm or death and the knowing use of force on a child that is likely to cause great bodily harm or death;

(D) Knowingly allowing a child to be present within a structure where the act of creating methamphetamine, as that substance is identified in [§ 39-17-408\(d\)\(2\)](#), is occurring;

## **TEXAS**

Tex. Penal Code § 22.041 (2006)

§ 22.041. 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.

(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 the person manufactured the controlled substance methamphetamine in the presence of the child.

(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](#).

Tex. Fam. Code § 261.001 (2006)

§ 261.001. Definitions

In this chapter:

(1) "Abuse" includes the following acts or omissions by a person:

(A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(I) the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;

(J) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code; or

(8) "Born addicted to alcohol or a controlled substance" means a child:

(A) who is born to a mother who during the pregnancy used a controlled substance, as defined by Chapter 481, Health and Safety Code, other than a controlled substance legally obtained by prescription, or alcohol; and

(B) who, after birth as a result of the mother's use of the controlled substance or alcohol:

- (i) experiences observable withdrawal from the alcohol or controlled substance;
- (ii) exhibits observable or harmful effects in the child's physical appearance or functioning; or
- (iii) exhibits the demonstrable presence of alcohol or a controlled substance in the child's bodily fluids.

## UTAH

Utah Code Ann. § 76-5-112.5 (2007)

### § 76-5-112.5. Endangerment of child or elder adult

(1) For purposes of this section:

(a) "Chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance, or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors, or to manufacturing equipment.

(b) "Child" means the same as that term is defined in [Subsection 76-5-109\(1\)\(a\)](#).

(c) "Controlled substance" means the same as that term is defined in [Section 58-37-2](#).

(d) "Drug paraphernalia" means the same as that term is defined in [Section 58-37a-3](#).

(2) Unless a greater penalty is otherwise provided by law, any person who knowingly or intentionally causes or permits a child or elder adult to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug paraphernalia as defined in Subsection (1), is guilty of a felony of the third degree.

(3) Unless a greater penalty is otherwise provided by law, any person who violates Subsection (2), and a child or elder adult actually suffers bodily injury, substantial bodily injury, or serious bodily injury by exposure to, ingestion of, inhalation of, or contact with a controlled substance, chemical substance, or drug paraphernalia, is guilty of a felony of the second degree unless the exposure, ingestion, inhalation, or contact results in the death of the child or elder adult, in which case the person is guilty of a felony of the first degree.

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

Utah Code Ann. § 62A-4a-404 (2007)

### § 62A-4a-404. Fetal alcohol syndrome and drug dependency -- Reporting requirements

When any person, including a licensee under the Medical Practice Act or the Nurse Practice Act, attends the birth of a child or cares for a child, and determines that the child, at the time of birth, has fetal alcohol syndrome or fetal drug dependency, he shall report that determination to the division as soon as possible.

## VERMONT

## VIRGINIA

Va. Code Ann. § 18.2-248.02 (2007)

§ 18.2-248.02. Allowing a child to be present during manufacture or attempted manufacture of methamphetamine prohibited; penalties

Any person 18 years of age or older who maintains a custodial relationship over a child under the age of 18, including but not limited to a parent, step-parent, grandparent, step-grandparent, or who stands in loco parentis with respect to such child, and who knowingly allows that child to be present in the same dwelling, apartment as defined by [§ 55-79.2](#), unit of a hotel as defined in [§ 35.1-1](#), garage, shed, or vehicle during the manufacture or attempted manufacture of methamphetamine as prohibited by subsection C1 of [§ 18.2-248](#) is guilty of a felony punishable by imprisonment for not less than 10 nor more than 40 years. This penalty shall be in addition to and served consecutively with any other sentence.

Va. Code Ann. § 63.2-1509 (2007)

§ 63.2-1509. Physicians, nurses, teachers, etc., to report certain injuries to children; penalty for failure to report

B. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall include (i) a finding made by an attending physician within seven days of a child's birth that the results of a blood or urine test conducted within 48 hours of the birth of the child indicate the presence of a controlled substance not prescribed for the mother by a physician; (ii) a finding by an attending physician made within 48 hours of a child's birth that the child was born dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms; (iii) a diagnosis by an attending physician made within seven days of a child's birth that the child has an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance which was not prescribed by a physician for the mother or the child; or (iv) a diagnosis by an attending physician made within seven days of a child's birth that the child has fetal alcohol syndrome attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report.

D. Any person required to file a report pursuant to this section who fails to do so within 72 hours of his first suspicion of child abuse or neglect shall be fined not more than \$ 500 for the first failure and for any subsequent failures not less than \$ 100 nor more than \$ 1,000.

## WASHINGTON

Rev. Code Wash. (ARCW) § 26.44.200 (2007)

### § 26.44.200. Methamphetamine manufacture -- Presence of child

A law enforcement agency in the course of investigating: (1) An allegation under [\\*RCW 69.50.401\(a\)](#) relating to manufacture of methamphetamine; or (2) an allegation under [RCW 69.50.440](#) relating to possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, that discovers a child present at the site, shall contact the department immediately.

Rev. Code Wash. (ARCW) § 26.44.170 (2007)

### § 26.44.170. Alleged child abuse or neglect -- Use of alcohol or controlled substances as contributing factor -- Evaluation

(1) When, as a result of a report of alleged child abuse or neglect, an investigation is made that includes an in-person contact with the person who is alleged to have committed the abuse or neglect, there shall be a determination of whether it is probable that the use of alcohol or controlled substances is a contributing factor to the alleged abuse or neglect.

(2) The department shall provide appropriate training for persons who conduct the investigations under subsection (1) of this section. The training shall include methods of identifying indicators of abuse of alcohol or controlled substances.

(3) If a determination is made under subsection (1) of this section that there is probable cause to believe abuse of alcohol or controlled substances has contributed to the child abuse or neglect, the department shall, within available funds, cause a comprehensive chemical dependency evaluation to be made of the person or persons so identified. The evaluation shall be conducted by a physician or persons certified under rules adopted by the department to make such evaluation. The department shall perform the duties assigned under this section within existing personnel resources.

Rev. Code Wash. (ARCW) § 9.94A.605 (2007)

### § 9.94A.605. Methamphetamine -- Manufacturing with child on premises -- Special allegation

In a criminal case where:

(1) The defendant has been convicted of (a) manufacture of a controlled substance under [RCW 69.50.401](#) relating to manufacture of methamphetamine; or (b) possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, as defined in [RCW 69.50.440](#); and

(2) There has been a special allegation pleaded and proven beyond a reasonable doubt that the defendant committed the crime when a person under the age of eighteen was present in or upon the premises of manufacture;

the court shall make a finding of fact of the special allegation, or if a jury trial is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to the special allegation.

## WEST VIRGINIA

W. Va. Code § 60A-10-12 (2007)

§ 60A-10-12. Exposure of children to methamphetamine manufacturing; penalties.

(a) Any person eighteen years of age or older who knowingly causes or permits a minor to be present in a location where methamphetamine is manufactured or attempted to be manufactured is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than one nor more than five years, fined not more than ten thousand dollars, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, the penalty for a violation of said subsection when the child suffers serious bodily injury as such is defined in the provisions of section one [§ 61-8B-1], chapter eight-b of this code shall be confined in a state correctional facility for not less than three nor more than fifteen years, fined not more than twenty-five thousand dollars, or both.

## WISCONSIN

Wis. Stat. § 48.02 (2006)

48.02. Definitions.

In this chapter, unless otherwise defined:

(1) "Abuse", other than when used in referring to abuse of alcohol beverages or other drugs, means any of the following:

(a) Physical injury inflicted on a child by other than accidental means.

(am) When used in referring to an unborn child, serious physical harm inflicted on the unborn child, and the risk of serious physical harm to the child when born, caused by the

habitual lack of self-control of the expectant mother of the unborn child in the use of alcohol beverages, controlled substances or controlled substance analogs, exhibited to a severe degree.

Wis. Stat. § 48.205 (2006)

48.205. Criteria for holding a child or expectant mother in physical custody.

(1) A child may be held under [s. 48.207 \(1\)](#), [48.208](#) or [48.209](#) if the intake worker determines that there is probable cause to believe the child is within the jurisdiction of the court and:

(d) Probable cause exists to believe that the child is an expectant mother, that if the child expectant mother is not held, there is a substantial risk that the physical health of the unborn child, and of the child when born, will be seriously affected or endangered by the child expectant mothers habitual lack of self-control in the use of alcohol beverages, controlled substances or controlled substance analogs, exhibited to a severe degree, and that the child expectant mother is refusing or has refused to accept any alcohol or other drug abuse services offered to her or is not making or has not made a good faith effort to participate in any alcohol or other drug abuse services offered to her.

## WYOMING

Wyo. Stat. § 6-4-403 (2006)

§ 6-4-403. 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;