Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0907.03 Jane Ritter x4342 **SENATE BILL 14-177**

SENATE SPONSORSHIP

Kerr and Newell,

HOUSE SPONSORSHIP

Young,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

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

Bill Summary

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

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

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

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

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

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

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

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

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

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

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

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

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

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~~ INVOLVING A DRUG-ENDANGERED CHILD, AS DEFINED IN SUBSECTION (44.7) OF THIS SECTION;

(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.~~

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

(a) IN THE PRESENCE OF A CHILD, OR ON THE PREMISES WHERE A CHILD IS FOUND OR RESIDES, A CONTROLLED SUBSTANCE, AS DEFINED IN

SECTION 18-18-102 (5), C.R.S., IS MANUFACTURED, DISTRIBUTED, CULTIVATED, PRODUCED, POSSESSED, OR USED, OR ATTEMPTED TO BE MANUFACTURED, DISTRIBUTED, CULTIVATED, PRODUCED, POSSESSED, OR USED, AND WHEN SUCH ACTIVITY THREATENS THE HEALTH OR WELFARE OF THE CHILD; OR

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

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

(d) 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.

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