

HOUSE BILL NO. 289

INTRODUCED BY C. SPRUNGER, V. RICCI, S. KELLY, G. OVERSTREET, R. GREGG, T. MILLETT, M. BERTOGLIO, S. GIST, W. MCKAMEY, F. SMITH, S. VANCE, D. HARVEY, L. SMITH, M. YAKAWICH, S. FITZPATRICK, B. LER, B. USHER, D. BAUM, P. FIELDER, B. MITCHELL, S. MORIGEAU, K. SEEKINS-CROWE, S. ESSMANN, J. DARLING

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE CRIME OF ENDANGERING THE WELFARE OF CHILDREN INCLUDES EXPOSING A CHILD TO THE PRODUCTION OR MANUFACTURE OF FENTANYL, HEROIN, OR COCAINE AND ALLOWING A CHILD TO BE EXPOSED TO FENTANYL, HEROIN, OR COCAINE; AND AMENDING SECTION 45-5-622, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-5-622, MCA, is amended to read:

"45-5-622. Endangering welfare of children. (1) (a) 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.

(b) A parent or guardian of a child does not violate a duty of care, protection, or support by permitting the child to engage in independent activities consistent with the child's intellectual, emotional, and physical maturity, including:

- (i) traveling to and from school by walking, running, bicycling, public transit, or other means;
- (ii) traveling to and from nearby commercial or recreational facilities;
- (iii) engaging in outdoor play;
- (iv) remaining for less than 15 minutes in a vehicle if the temperature inside the vehicle is not or will not become dangerously hot or cold;
- (v) remaining at home if the parent or guardian:
 - (A) returns home the same day on which the parent or guardian gives the child permission to

1 remain at home;

2 (B) makes provisions for the child to contact the parent or guardian; and

3 (C) makes provisions for any reasonably foreseeable emergency.

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

8 (a) 18 years old by:

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

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

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

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

13 (ii) engage in sexual conduct.

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

19 (a) produces or manufactures methamphetamine, fentanyl, heroin, or cocaine or attempts to
20 produce or manufacture methamphetamine, fentanyl, heroin, or cocaine;

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

23 (c) causes or permits a child to inhale, be exposed to, have contact with, or ingest
24 methamphetamine, fentanyl, heroin, or cocaine or be exposed to or have contact with methamphetamine,
25 fentanyl, heroin, or cocaine drug paraphernalia as defined in 45-10-101.

26 (4) A parent, guardian, or other person supervising the welfare of a child less than 16 years of age
27 may verbally or in writing request a person who is 18 years of age or older and who has no legal right of
28 supervision or control over the child to stop contacting the child if the requester believes that the contact is not

1 in the child's best interests. If the person continues to contact the child, the parent, guardian, or other person
2 supervising the welfare of the child may petition or the county attorney may upon the person's request petition
3 for an order of protection under Title 40, chapter 15. To the extent that they are consistent with this subsection,
4 the provisions of Title 40, chapter 15, apply. A person who purposely or knowingly violates an order of
5 protection commits the offense of endangering the welfare of children and upon conviction shall be sentenced
6 as provided in subsection (5)(a).

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

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

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

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

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