
**Criminal Justice & Corrections
Committee**

HB 2610

Brief Description: Providing criminal penalties for endangerment of children and dependent persons with a controlled substance.

Sponsors: Representatives Darneille, Morell, Tokuda, O'Brien, Upthegrove, Kirby and Campbell.

Brief Summary of Bill

- Creates the crime of "endangerment with a controlled substance" in the first degree, a class B felony, when a person knowingly or intentionally permits a child or dependent adult to be exposed to a controlled substance, a chemical substance, or drug paraphernalia and as a result thereby causes bodily injury.
- Creates the crime of "endangerment with a controlled substance" in the second degree, a class C felony, when a person knowingly or intentionally causes or permits a child or dependent adult to be exposed to a controlled substance, a chemical substance, or drug paraphernalia.

Hearing Date: 2/5/02

Staff: Yvonne Walker (786-7841).

Background:

Controlled Substances around Children: Controlled substances can ordinarily be defined as a drug, substance, or immediate precursor that is included in the Uniform Controlled Substance Act and are listed in various schedules with regards to their potential for abuse.

Drug paraphernalia can be defined as all equipment, products, and materials of any kind which are used, intended for use, or designed for use in: planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. It includes, but is not limited to, such items as: scales and balances, blenders,

bowls, containers, spoons, capsules, balloons, envelopes, hypodermic syringes, needles, pipes, roach clips, bongs, ice pipes, and chillers.

Generally, under the Uniform Controlled Substance Act, it is illegal for any person to possess, sell, manufacture, or deliver controlled drugs. A person convicted of a controlled substance offense receives a sentence within the standard range for the offense which, under the Sentencing Reform Act, is calculated using the seriousness level of the current offense and the extent of the offender's criminal history.

Two-year sentence enhancements are often added to an offender's sentence when certain crimes involving controlled substances are manufactured, sold, delivered, or possessed in public areas such as at or near schools, parks, public transit, drug free zones, or civic centers.

Furthermore, in methamphetamine cases, if a court makes a finding of fact or in a jury trial if the jury finds a special verdict that: (1) an offender manufactured methamphetamine or possessed ephedrine or pseudoephedrine with intent to manufacture methamphetamine and (2) the underlying crime was committed when a person under the age of 18 was present in or on the premises of the place where the methamphetamine was being manufactured, then an additional two year enhancement is be added to the offender's presumptive sentence.

Termination of Parental Rights: The court may order a termination of a parent-child relationship. Terminations arise primarily in two contexts: 1) terminations for neglect of a dependent child, governed by the juvenile court statutes and heard in juvenile court; and 2) terminations to allow the child to be adopted, governed by the adoption statutes. In addition, a court may order that a petition seeking termination of a parent's rights be filed in instances where immediate danger to a child may be alleviated, where it may be in the best interest of the child, and where aggravated circumstances may exist. Aggravated circumstances that a court generally considers includes whether the parent has been convicted of a crime, such as rape of a child, criminal mistreatment of a child, assault, manslaughter, murder, or homicide by abuse of the child's other parent, sibling, or another child.

Background checks: Employers may require background checks on any prospective employee or volunteer who may have unsupervised access to children or vulnerable adults. If requested by a business or organization, the Washington State Patrol must disclose certain conviction records relating to the prospective employee. One of those records that must be disclosed are any convictions for "crimes committed against children or other persons" which include such offenses as murder, assault, robbery, rape, kidnapping, arson, burglary, and child abuse or neglect.

Summary of Bill:

Two new crimes are created within the Criminal Mistreatment Act: endangerment with a controlled substance in the first and second degree.

Controlled Substances around Children: Endangerment with a controlled substance in the first degree is committed if a person causes bodily harm, substantial bodily harm, or great bodily harm by knowingly or intentionally permitting a child or dependent adult to:

- Be exposed to;
- Ingest;
- Inhale; or
- Have contact with, a controlled substance, chemical substance, or drug paraphernalia.

Endangerment with a controlled substance in the first degree is a seriousness level V, class B felony. A person with no prior criminal history would receive a presumptive sentence range of six to 12 months in jail.

Endangerment with a controlled substance in the second degree is committed if a person causes or permits a child or dependent adult to:

- Be exposed to;
- Ingest;
- Inhale; or
- Have contact with, a controlled substance, chemical substance, or drug paraphernalia.

Endangerment with a controlled substance in the second degree is a seriousness level III, class C felony. A person with no prior criminal history would receive a presumptive sentence range of one to three months in jail.

It is an affirmative defense that the person acted pursuant to a lawful prescription and in the manner prescribed.

Termination of Parental Rights: The list of aggravating circumstances is expanded to include endangerment with a controlled substance in the first and second degree. A court may order that a petition seeking termination of a parent's rights be filed in instances where the parent has been convicted of endangerment with a controlled substance.

Background checks: The list of "crimes committed against children or other persons" is expanded to include endangerment with a controlled substance in the first and second degree.

Chemical substance is defined as a substance used as a precursor in the manufacture of a controlled substance or any other chemical that is intended to be used in the manufacture of a controlled substance.

Appropriation: None.

Fiscal Note: Requested on January 31, 2002.

Effective Date: The bill contains an emergency clause and takes effect immediately.