

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2610

Chapter 229, Laws of 2002

57th Legislature
2002 Regular Session

ENDANGERMENT WITH A CONTROLLED SUBSTANCE

EFFECTIVE DATE: 3/28/02

Passed by the House March 13, 2002
Yeas 95 Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 8, 2002
Yeas 49 Nays 0

BRAD OWEN
President of the Senate

Approved March 28, 2002

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2610** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

March 28, 2002 - 9:02 a.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2610

AS AMENDED BY THE SENATE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2002 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Darneille, Morell, Tokuda, O'Brien, Upthegrove, Kirby and Campbell)

Read first time 02/07/2002. Referred to Committee on .

1 AN ACT Relating to endangerment of children and dependent persons
2 with a controlled substance; amending RCW 43.43.830; reenacting and
3 amending RCW 9.94A.515; adding a new section to chapter 9A.42 RCW;
4 prescribing penalties; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.42 RCW
7 to read as follows:

8 A person is guilty of the crime of endangerment with a controlled
9 substance if the person knowingly or intentionally permits a dependent
10 child or dependent adult to be exposed to, ingest, inhale, or have
11 contact with methamphetamine or ephedrine, pseudoephedrine, or
12 anhydrous ammonia, that are being used in the manufacture of
13 methamphetamine. Endangerment with a controlled substance is a class
14 B felony.

15 **Sec. 2.** RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s
16 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to
17 read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XVI	Aggravated Murder 1 (RCW 10.95.020)
4	XV	Homicide by abuse (RCW 9A.32.055)
5		Malicious explosion 1 (RCW 70.74.280(1))
6		Murder 1 (RCW 9A.32.030)
7	XIV	Murder 2 (RCW 9A.32.050)
8	XIII	Malicious explosion 2 (RCW 70.74.280(2))
9		Malicious placement of an explosive 1 (RCW
10		70.74.270(1))
11	XII	Assault 1 (RCW 9A.36.011)
12		Assault of a Child 1 (RCW 9A.36.120)
13		Malicious placement of an imitation device
14		1 (RCW 70.74.272(1)(a))
15		Rape 1 (RCW 9A.44.040)
16		Rape of a Child 1 (RCW 9A.44.073)
17	XI	Manslaughter 1 (RCW 9A.32.060)
18		Rape 2 (RCW 9A.44.050)
19		Rape of a Child 2 (RCW 9A.44.076)
20	X	Child Molestation 1 (RCW 9A.44.083)
21		Indecent Liberties (with forcible
22		compulsion) (RCW 9A.44.100(1)(a))
23		Kidnapping 1 (RCW 9A.40.020)
24		Leading Organized Crime (RCW
25		9A.82.060(1)(a))
26		Malicious explosion 3 (RCW 70.74.280(3))
27		Manufacture of methamphetamine (RCW
28		69.50.401(a)(1)(ii))
29		Over 18 and deliver heroin,
30		methamphetamine, a narcotic from
31		Schedule I or II, or flunitrazepam
32		from Schedule IV to someone under 18
33		(RCW 69.50.406)
34		Sexually Violent Predator Escape (RCW
35		9A.76.115)

1 IX Assault of a Child 2 (RCW 9A.36.130)
2 Controlled Substance Homicide (RCW
3 69.50.415)
4 Explosive devices prohibited (RCW
5 70.74.180)
6 Hit and Run--Death (RCW 46.52.020(4)(a))
7 Homicide by Watercraft, by being under the
8 influence of intoxicating liquor or
9 any drug (RCW 79A.60.050)
10 Inciting Criminal Profiteering (RCW
11 9A.82.060(1)(b))
12 Malicious placement of an explosive 2 (RCW
13 70.74.270(2))
14 Over 18 and deliver narcotic from Schedule
15 III, IV, or V or a nonnarcotic, except
16 flunitrazepam or methamphetamine, from
17 Schedule I-V to someone under 18 and 3
18 years junior (RCW 69.50.406)
19 Robbery 1 (RCW 9A.56.200)
20 Sexual Exploitation (RCW 9.68A.040)
21 Vehicular Homicide, by being under the
22 influence of intoxicating liquor or
23 any drug (RCW 46.61.520)
24 VIII Arson 1 (RCW 9A.48.020)
25 Deliver or possess with intent to deliver
26 methamphetamine (RCW
27 69.50.401(a)(1)(ii))
28 Homicide by Watercraft, by the operation of
29 any vessel in a reckless manner (RCW
30 79A.60.050)
31 Manslaughter 2 (RCW 9A.32.070)
32 Manufacture, deliver, or possess with
33 intent to deliver amphetamine (RCW
34 69.50.401(a)(1)(ii))
35 Manufacture, deliver, or possess with
36 intent to deliver heroin or cocaine
37 (RCW 69.50.401(a)(1)(i))
38 Possession of Ephedrine, Pseudoephedrine,
39 or Anhydrous Ammonia with intent to

1 manufacture methamphetamine (RCW
2 69.50.440)
3 Promoting Prostitution 1 (RCW 9A.88.070)
4 Selling for profit (controlled or
5 counterfeit) any controlled substance
6 (RCW 69.50.410)
7 Theft of Anhydrous Ammonia (RCW 69.55.010)
8 Vehicular Homicide, by the operation of any
9 vehicle in a reckless manner (RCW
10 46.61.520)

11 VII Burglary 1 (RCW 9A.52.020)
12 Child Molestation 2 (RCW 9A.44.086)
13 Dealing in depictions of minor engaged in
14 sexually explicit conduct (RCW
15 9.68A.050)
16 Drive-by Shooting (RCW 9A.36.045)
17 Homicide by Watercraft, by disregard for
18 the safety of others (RCW 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1) (b) and
21 (c))
22 Introducing Contraband 1 (RCW 9A.76.140)
23 Involving a minor in drug dealing (RCW
24 69.50.401(f))
25 Malicious placement of an explosive 3 (RCW
26 70.74.270(3))
27 Sending, bringing into state depictions of
28 minor engaged in sexually explicit
29 conduct (RCW 9.68A.060)
30 Unlawful Possession of a Firearm in the
31 first degree (RCW 9.41.040(1)(a))
32 Use of a Machine Gun in Commission of a
33 Felony (RCW 9.41.225)
34 Vehicular Homicide, by disregard for the
35 safety of others (RCW 46.61.520)

36 VI Bail Jumping with Murder 1 (RCW
37 9A.76.170(3)(a))
38 Bribery (RCW 9A.68.010)

1 Incest 1 (RCW 9A.64.020(1))
2 Intimidating a Judge (RCW 9A.72.160)
3 Intimidating a Juror/Witness (RCW
4 9A.72.110, 9A.72.130)
5 Malicious placement of an imitation device
6 2 (RCW 70.74.272(1)(b))
7 Manufacture, deliver, or possess with
8 intent to deliver narcotics from
9 Schedule I or II (except heroin or
10 cocaine) or flunitrazepam from
11 Schedule IV (RCW 69.50.401(a)(1)(i))
12 Rape of a Child 3 (RCW 9A.44.079)
13 Theft of a Firearm (RCW 9A.56.300)
14 Unlawful Storage of Anhydrous Ammonia (RCW
15 69.55.020)

16 V Abandonment of dependent person 1 (RCW
17 9A.42.060)
18 Advancing money or property for
19 extortionate extension of credit (RCW
20 9A.82.030)
21 Bail Jumping with class A Felony (RCW
22 9A.76.170(3)(b))
23 Child Molestation 3 (RCW 9A.44.089)
24 Criminal Mistreatment 1 (RCW 9A.42.020)
25 Custodial Sexual Misconduct 1 (RCW
26 9A.44.160)
27 Delivery of imitation controlled substance
28 by person eighteen or over to person
29 under eighteen (RCW 69.52.030(2))
30 Domestic Violence Court Order Violation
31 (RCW 10.99.040, 10.99.050, 26.09.300,
32 26.10.220, 26.26.138, 26.50.110,
33 26.52.070, or 74.34.145)
34 Extortion 1 (RCW 9A.56.120)
35 Extortionate Extension of Credit (RCW
36 9A.82.020)
37 Extortionate Means to Collect Extensions of
38 Credit (RCW 9A.82.040)
39 Incest 2 (RCW 9A.64.020(2))

1 Kidnapping 2 (RCW 9A.40.030)
2 Perjury 1 (RCW 9A.72.020)
3 Persistent prison misbehavior (RCW
4 9.94.070)
5 Possession of a Stolen Firearm (RCW
6 9A.56.310)
7 Rape 3 (RCW 9A.44.060)
8 Rendering Criminal Assistance 1 (RCW
9 9A.76.070)
10 Sexual Misconduct with a Minor 1 (RCW
11 9A.44.093)
12 Sexually Violating Human Remains (RCW
13 9A.44.105)
14 Stalking (RCW 9A.46.110)

15 IV Arson 2 (RCW 9A.48.030)
16 Assault 2 (RCW 9A.36.021)
17 Assault by Watercraft (RCW 79A.60.060)
18 Bribing a Witness/Bribe Received by Witness
19 (RCW 9A.72.090, 9A.72.100)
20 Commercial Bribery (RCW 9A.68.060)
21 Counterfeiting (RCW 9.16.035(4))
22 Endangerment with a Controlled Substance
23 (section 1 of this act)
24 Escape 1 (RCW 9A.76.110)
25 Hit and Run--Injury (RCW 46.52.020(4)(b))
26 Hit and Run with Vessel--Injury Accident
27 (RCW 79A.60.200(3))
28 Identity Theft 1 (RCW 9.35.020(2)(a))
29 Indecent Exposure to Person Under Age
30 Fourteen (subsequent sex offense) (RCW
31 9A.88.010)
32 Influencing Outcome of Sporting Event (RCW
33 9A.82.070)
34 Knowingly Trafficking in Stolen Property
35 (RCW 9A.82.050(2))
36 Malicious Harassment (RCW 9A.36.080)
37 Manufacture, deliver, or possess with
38 intent to deliver narcotics from
39 Schedule III, IV, or V or nonnarcotics

1 from Schedule I-V (except marijuana,
2 amphetamine, methamphetamines, or
3 flunitrazepam) (RCW 69.50.401(a)(1)
4 (iii) through (v))
5 Residential Burglary (RCW 9A.52.025)
6 Robbery 2 (RCW 9A.56.210)
7 Theft of Livestock 1 (RCW 9A.56.080)
8 Threats to Bomb (RCW 9.61.160)
9 Use of Proceeds of Criminal Profiteering
10 (RCW 9A.82.080 (1) and (2))
11 Vehicular Assault, by being under the
12 influence of intoxicating liquor or
13 any drug, or by the operation or
14 driving of a vehicle in a reckless
15 manner (RCW 46.61.522)
16 Willful Failure to Return from Furlough
17 (RCW 72.66.060)

18 III Abandonment of dependent person 2 (RCW
19 9A.42.070)
20 Assault 3 (RCW 9A.36.031)
21 Assault of a Child 3 (RCW 9A.36.140)
22 Bail Jumping with class B or C Felony (RCW
23 9A.76.170(3)(c))
24 Burglary 2 (RCW 9A.52.030)
25 Communication with a Minor for Immoral
26 Purposes (RCW 9.68A.090)
27 Criminal Gang Intimidation (RCW 9A.46.120)
28 Criminal Mistreatment 2 (RCW 9A.42.030)
29 Custodial Assault (RCW 9A.36.100)
30 Delivery of a material in lieu of a
31 controlled substance (RCW
32 69.50.401(c))
33 Escape 2 (RCW 9A.76.120)
34 Extortion 2 (RCW 9A.56.130)
35 Harassment (RCW 9A.46.020)
36 Intimidating a Public Servant (RCW
37 9A.76.180)
38 Introducing Contraband 2 (RCW 9A.76.150)

1 Maintaining a Dwelling or Place for
2 Controlled Substances (RCW
3 69.50.402(a)(6))
4 Malicious Injury to Railroad Property (RCW
5 81.60.070)
6 Manufacture, deliver, or possess with
7 intent to deliver marijuana (RCW
8 69.50.401(a)(1)(iii))
9 Manufacture, distribute, or possess with
10 intent to distribute an imitation
11 controlled substance (RCW
12 69.52.030(1))
13 Patronizing a Juvenile Prostitute (RCW
14 9.68A.100)
15 Perjury 2 (RCW 9A.72.030)
16 Possession of Incendiary Device (RCW
17 9.40.120)
18 Possession of Machine Gun or Short-Barreled
19 Shotgun or Rifle (RCW 9.41.190)
20 Promoting Prostitution 2 (RCW 9A.88.080)
21 Recklessly Trafficking in Stolen Property
22 (RCW 9A.82.050(1))
23 Securities Act violation (RCW 21.20.400)
24 Tampering with a Witness (RCW 9A.72.120)
25 Telephone Harassment (subsequent conviction
26 or threat of death) (RCW 9.61.230)
27 Theft of Livestock 2 (RCW 9A.56.080)
28 Unlawful Imprisonment (RCW 9A.40.040)
29 Unlawful possession of firearm in the
30 second degree (RCW 9.41.040(1)(b))
31 Unlawful Use of Building for Drug Purposes
32 (RCW 69.53.010)
33 Vehicular Assault, by the operation or
34 driving of a vehicle with disregard
35 for the safety of others (RCW
36 46.61.522)
37 Willful Failure to Return from Work Release
38 (RCW 72.65.070)
39 II Computer Trespass 1 (RCW 9A.52.110)

1 Counterfeiting (RCW 9.16.035(3))
2 Create, deliver, or possess a counterfeit
3 controlled substance (RCW
4 69.50.401(b))
5 Escape from Community Custody (RCW
6 72.09.310)
7 Health Care False Claims (RCW 48.80.030)
8 Identity Theft 2 (RCW 9.35.020(2)(b))
9 Improperly Obtaining Financial Information
10 (RCW 9.35.010)
11 Malicious Mischief 1 (RCW 9A.48.070)
12 Possession of controlled substance that is
13 either heroin or narcotics from
14 Schedule I or II or flunitrazepam from
15 Schedule IV (RCW 69.50.401(d))
16 Possession of phencyclidine (PCP) (RCW
17 69.50.401(d))
18 Possession of Stolen Property 1 (RCW
19 9A.56.150)
20 Theft 1 (RCW 9A.56.030)
21 Theft of Rental, Leased, or Lease-purchased
22 Property (valued at one thousand five
23 hundred dollars or more) (RCW
24 9A.56.096(4))
25 Trafficking in Insurance Claims (RCW
26 48.30A.015)
27 Unlawful Practice of Law (RCW 2.48.180)
28 Unlicensed Practice of a Profession or
29 Business (RCW 18.130.190(7))
30 I Attempting to Elude a Pursuing Police
31 Vehicle (RCW 46.61.024)
32 False Verification for Welfare (RCW
33 74.08.055)
34 Forged Prescription (RCW 69.41.020)
35 Forged Prescription for a Controlled
36 Substance (RCW 69.50.403)
37 Forgery (RCW 9A.60.020)
38 Malicious Mischief 2 (RCW 9A.48.080)

1 Possess Controlled Substance that is a
2 Narcotic from Schedule III, IV, or V
3 or Non-narcotic from Schedule I-V
4 (except phencyclidine or
5 flunitrazepam) (RCW 69.50.401(d))
6 Possession of Stolen Property 2 (RCW
7 9A.56.160)
8 Reckless Burning 1 (RCW 9A.48.040)
9 Taking Motor Vehicle Without Permission
10 (RCW 9A.56.070)
11 Theft 2 (RCW 9A.56.040)
12 Theft of Rental, Leased, or Lease-purchased
13 Property (valued at two hundred fifty
14 dollars or more but less than one
15 thousand five hundred dollars) (RCW
16 9A.56.096(4))
17 Unlawful Issuance of Checks or Drafts (RCW
18 9A.56.060)
19 Unlawful Use of Food Stamps (RCW 9.91.140
20 (2) and (3))
21 Vehicle Prowl 1 (RCW 9A.52.095)

22 **Sec. 3.** RCW 43.43.830 and 1999 c 45 s 5 are each amended to read
23 as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout RCW 43.43.830 through 43.43.840.

26 (1) "Applicant" means:

27 (a) Any prospective employee who will or may have unsupervised
28 access to children under sixteen years of age or developmentally
29 disabled persons or vulnerable adults during the course of his or her
30 employment or involvement with the business or organization;

31 (b) Any prospective volunteer who will have regularly scheduled
32 unsupervised access to children under sixteen years of age,
33 developmentally disabled persons, or vulnerable adults during the
34 course of his or her employment or involvement with the business or
35 organization under circumstances where such access will or may involve
36 groups of (i) five or fewer children under twelve years of age, (ii)
37 three or fewer children between twelve and sixteen years of age, (iii)
38 developmentally disabled persons, or (iv) vulnerable adults; or

1 (c) Any prospective adoptive parent, as defined in RCW 26.33.020.

2 (2) "Business or organization" means a business or organization
3 licensed in this state, any agency of the state, or other governmental
4 entity, that educates, trains, treats, supervises, houses, or provides
5 recreation to developmentally disabled persons, vulnerable adults, or
6 children under sixteen years of age, including but not limited to
7 public housing authorities, school districts, and educational service
8 districts.

9 (3) "Civil adjudication" means a specific court finding of sexual
10 abuse or exploitation or physical abuse in a dependency action under
11 RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In
12 the case of vulnerable adults, civil adjudication means a specific
13 court finding of abuse or financial exploitation in a protection
14 proceeding under chapter 74.34 RCW. It does not include administrative
15 proceedings. The term "civil adjudication" is further limited to court
16 findings that identify as the perpetrator of the abuse a named
17 individual, over the age of eighteen years, who was a party to the
18 dependency or dissolution proceeding or was a respondent in a
19 protection proceeding in which the finding was made and who contested
20 the allegation of abuse or exploitation.

21 (4) "Conviction record" means "conviction record" information as
22 defined in RCW 10.97.030(3) relating to a crime against children or
23 other persons committed by either an adult or a juvenile. It does not
24 include a conviction for an offense that has been the subject of an
25 expungement, pardon, annulment, certificate of rehabilitation, or other
26 equivalent procedure based on a finding of the rehabilitation of the
27 person convicted, or a conviction that has been the subject of a
28 pardon, annulment, or other equivalent procedure based on a finding of
29 innocence. It does include convictions for offenses for which the
30 defendant received a deferred or suspended sentence, unless the record
31 has been expunged according to law.

32 (5) "Crime against children or other persons" means a conviction of
33 any of the following offenses: Aggravated murder; first or second
34 degree murder; first or second degree kidnaping; first, second, or
35 third degree assault; first, second, or third degree assault of a
36 child; first, second, or third degree rape; first, second, or third
37 degree rape of a child; first or second degree robbery; first degree
38 arson; first degree burglary; first or second degree manslaughter;
39 first or second degree extortion; indecent liberties; incest; vehicular

1 homicide; first degree promoting prostitution; communication with a
2 minor; unlawful imprisonment; simple assault; sexual exploitation of
3 minors; first or second degree criminal mistreatment; endangerment with
4 a controlled substance; child abuse or neglect as defined in RCW
5 26.44.020; first or second degree custodial interference; first or
6 second degree custodial sexual misconduct; malicious harassment; first,
7 second, or third degree child molestation; first or second degree
8 sexual misconduct with a minor; patronizing a juvenile prostitute;
9 child abandonment; promoting pornography; selling or distributing
10 erotic material to a minor; custodial assault; violation of child abuse
11 restraining order; child buying or selling; prostitution; felony
12 indecent exposure; criminal abandonment; or any of these crimes as they
13 may be renamed in the future.

14 (6) "Crimes relating to drugs" means a conviction of a crime to
15 manufacture, delivery, or possession with intent to manufacture or
16 deliver a controlled substance.

17 (7) "Crimes relating to financial exploitation" means a conviction
18 for first, second, or third degree extortion; first, second, or third
19 degree theft; first or second degree robbery; forgery; or any of these
20 crimes as they may be renamed in the future.

21 (8) "Disciplinary board final decision" means any final decision
22 issued by a disciplining authority under chapter 18.130 RCW or the
23 secretary of the department of health for the following businesses or
24 professions:

- 25 (a) Chiropractic;
- 26 (b) Dentistry;
- 27 (c) Dental hygiene;
- 28 (d) Massage;
- 29 (e) Midwifery;
- 30 (f) Naturopathy;
- 31 (g) Osteopathic medicine and surgery;
- 32 (h) Physical therapy;
- 33 (i) Physicians;
- 34 (j) Practical nursing;
- 35 (k) Registered nursing; and
- 36 (l) Psychology.

37 "Disciplinary board final decision," for real estate brokers and
38 salespersons, means any final decision issued by the director of the
39 department of licensing for real estate brokers and salespersons.

1 (9) "Unsupervised" means not in the presence of:

2 (a) Another employee or volunteer from the same business or
3 organization as the applicant; or

4 (b) Any relative or guardian of any of the children or
5 developmentally disabled persons or vulnerable adults to which the
6 applicant has access during the course of his or her employment or
7 involvement with the business or organization.

8 (10) "Vulnerable adult" means "vulnerable adult" as defined in
9 chapter 74.34 RCW, except that for the purposes of requesting and
10 receiving background checks pursuant to RCW 43.43.832, it shall also
11 include adults of any age who lack the functional, mental, or physical
12 ability to care for themselves.

13 (11) "Financial exploitation" means the illegal or improper use of
14 a vulnerable adult or that adult's resources for another person's
15 profit or advantage.

16 (12) "Agency" means any person, firm, partnership, association,
17 corporation, or facility which receives, provides services to, houses
18 or otherwise cares for vulnerable adults.

19 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and takes effect
22 immediately.

Passed the House March 13, 2002.

Passed the Senate March 8, 2002.

Approved by the Governor March 28, 2002.

Filed in Office of Secretary of State March 28, 2002.