

LAWS OF DELAWARE
VOLUME 84
CHAPTER 127
152nd GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 183
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO ENDANGERING THE WELFARE OF A CHILD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 1102, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1102. Endangering the welfare of a child; class A misdemeanor; ~~class E or G felony.~~ class B, C, D, E, or G felony.

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

(7)~~a.~~ ~~The person provides or permits a child to consume or inhale any substance not prescribed to the child by a physician, as defined in §§ 4714, 4716, 4718, 4720, and 4722 of Title 16. A child dies, suffers a serious physical injury, suffers a physical injury, or suffers a period of altered mental or physical state because the person intentionally, knowingly, or recklessly makes available to the child through exposure, consumption, or inhalation any of the following:~~

1. A controlled substance that is not prescribed to the child by a physician.

2. A prescription drug that is not a controlled substance but for which a prescription is required.

b. As used in this paragraph (a)(7):

1. "Controlled substance" means as defined in § 4701 of Title 16.

2. "Prescription drug" means as defined in § 4701 of Title 16.

(b) Endangering the welfare of a ~~child~~ child, except paragraph (a)(7) of this section, 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(i) 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.

(c) Endangering the welfare of a child, as set forth in paragraph (a)(7) of this section, shall be punished as follows:

(1) When the death of a child occurs while the child's welfare was endangered as defined in paragraph (a)(7) of this section, endangering the welfare of a child is a class B felony.

(2) When serious physical injury to a child occurs while the child's welfare was endangered as defined in paragraph (a)(7) of this section, endangering the welfare of a child is a class C felony.

(3) When physical injury to a child occurs while the child's welfare was endangered as defined in paragraph (a)(7) of this section, endangering the welfare of a child is a class D felony.

(4) When physical injury to a child does not occur while the child's welfare was endangered as defined in paragraph (a)(7) of this section, but the child suffers a period of altered mental or physical state, endangering the welfare of a child is a class A misdemeanor.

(e)(d) For the purpose of imposing the penalties prescribed in paragraph (b)(1), ~~(b)(2) or (b)(3)~~ (b)(2), (b)(3), (c)(1), (c)(2), (c)(3), or (c)(4) of this section, it is not necessary to prove the person's state of mind or liability for causation with regard to the resulting death of or physical injury to the ~~child or child~~, sexual offense against the ~~child~~ child, or altered mental or physical state of the child, notwithstanding the provisions of § 251, § 252, § 261, § 262, § 263 or § 264 of this title, or any other statutes to the contrary.

Approved July 31, 2023