



SPONSOR: Rep. Griffith & Rep. Dorsey Walker & Sen. Gay & Sen. Townsend
Reps. Carson, Heffernan, Hilovsky, Romer, Vanderwende, K. Williams; Sens. Brown, Buckson, Hansen, Hocker, Hoffner, Huxtable, Lawson, Lockman, Mantzavinos, S. McBride, Paradee, Pettyjohn, Pinkney, Poore, Richardson, Sokola, Sturgeon, Walsh, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 183

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.~~ intentionally, knowingly, or recklessly makes available to a 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.

SYNOPSIS

This Act revises the existing crime of endangering the welfare of a child by providing or permitting a child to consume or inhale unprescribed controlled substances in the following ways:

1. Prohibits a person from intentionally, knowingly, or recklessly making controlled substances or prescription drugs available to a child through exposure, consumption, or inhalation.
2. Creates new penalties for endangering the welfare of a child through exposure, consumption, or inhalation of drugs.

This Act requires a greater than majority vote for passage because § 28 of Article IV of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to expand the scope of an existing crime within the jurisdiction of the Court of Common Pleas, Family Court, or Justice of the Peace Court.