

**2005 DRAFTING REQUEST**

**Assembly Amendment (AA-AB213)**

Received: **04/06/2005**

Received By: **gmalaise**

Wanted: **04/11/2005**

Identical to LRB:

For: **Terry Moulton (608) 266-9172**

By/Representing: **Matt Seaholm**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - TPR and adoption**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Moulton@legis.state.wi.us**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Termination of parental rights; manufacture of methamphetamine in presence of child; circumstances constituting "presence" of child

---

**Instructions:**

See Attached--define "presence" of a child in the same manner as Iowa in s. 232.2 (6) (p) 1., Iowa Code.

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 04/06/2005	kfollett 04/07/2005		_____			
/1			jfrantze 04/07/2005	_____	sbasford 04/07/2005	sbasford 04/07/2005	

FE Sent For:

<END>

**2005 DRAFTING REQUEST**

**Assembly Amendment (AA-AB213)**

Received: **04/06/2005**

Received By: **gmalaise**

Wanted: **04/11/2005**

Identical to LRB:

For: **Terry Moulton (608) 266-9172**

By/Representing: **Matt Seaholm**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - TPR and adoption**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Moulton@legis.state.wi.us**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Termination of parental rights; manufacture of methamphetamine in presence of child; circumstances constituting "presence" of child

---

**Instructions:**

See Attached--define "presence" of a child in the same manner as Iowa in s. 232.2 (6) (p) 1., Iowa Code.

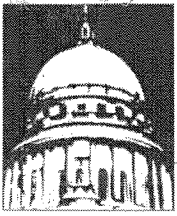
---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise	11kjf 9/17		J. Seib 4/17			

FE Sent For:

<END>



# TERRY MOULTON

WISCONSIN STATE REPRESENTATIVE



68<sup>TH</sup> ASSEMBLY DISTRICT

Gordon,

For the amendment to AB 213, the definition set forth in the Iowa Code on page three of the enclosed information is what we like. Take a look and let me know what you think,

Thanks,

Matt Seaholm  
Office of Rep. Moulton  
6-9172

# ARKANSAS CODE OF 1987 ANNOTATED

TITLE 5. CRIMINAL OFFENSES  
SUBTITLE 3. OFFENSES INVOLVING FAMILIES, DEPENDENTS, ETC.  
CHAPTER 27. OFFENSES AGAINST CHILDREN OR INCOMPETENTS  
SUBCHAPTER 2. OFFENSES GENERALLY

A.C.A. § 5-27-230 (2005)

## § 5-27-230. Exposing a child to a chemical substance or methamphetamine

CRIME

(a) For purposes of this section:

- (1) (A) "Chemical substance" means a substance intended to be used as a precursor in the manufacture of methamphetamine, or any other chemical intended to be used in the manufacture of methamphetamine.
- (B) Intent may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors or equipment used to manufacture methamphetamine;
- (2) "Child" means any person under the age of eighteen (18) years; and
- (3) "Methamphetamine" has the same meaning as provided in the Uniform Controlled Substances Act, § 5-64-101 et seq.

(b) (1) Any adult who, with the intent to manufacture **methamphetamine**, knowingly causes or permits a **child to be exposed** to, ingest, inhale, or have any contact with a chemical substance or **methamphetamine** is guilty of a Class C felony.

(2) Any adult who violates subdivision (b)(1) of this section is guilty of a Class B felony if a child suffers physical injury or serious physical injury because of the violation.

**HISTORY:** Acts 2003, No. 930, § 1.

# Iowa Code § 232.2 (2004)

TITLE VI. HUMAN SERVICES  
SUBTITLE 5. JUVENILES  
CHAPTER 232. JUVENILE JUSTICE  
DIVISION I. CONSTRUCTION AND  
DEFINITIONS

## ♦ GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

232.2 Definitions.

As used in this chapter unless the context otherwise requires:

1. "Abandonment of a child" means the relinquishment or surrender, without reference to any particular person, of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of abandonment must include both the intention to abandon and the acts by which the intention is evidenced. The term does not require that the relinquishment or surrender be over any particular period of time.

2. "Adjudicatory hearing" means a hearing to determine if the allegations of a petition are true.

3. "Adult" means a person other than a child.

4. "Case permanency plan" means the plan, mandated by Pub. L. No. 96-272 and Pub. L. No. 105-89, as codified in 42 U.S.C. § 622(b)(10), 671(a)(16), and 675(1)(5), which is designed to achieve placement in the most appropriate, least restrictive, and most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan shall be developed by the department or agency involved and the child's parent, guardian, or custodian. The plan shall specifically include all of the following:

- a. Plans for carrying out the voluntary placement agreement or judicial determination pursuant to which the child entered care.

Practitioner's Toolbox

Case Notes

History

Resources & Practice Tools

Law Reviews

see 233

1

- k. Whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody.
- l. Who for good cause desires to have the child's parents relieved of the child's care and custody.
- m. Who is in need of treatment to cure or alleviate chemical dependency, and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.
- n. Whose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care.
- o. In whose body there is an illegal drug present as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian. The presence of the drug shall be determined in accordance with a medically relevant test as defined in section 232.73.

p. Whose parent, guardian, or custodian does any of the following: unlawfully manufactures a dangerous substance in the presence of a child, knowingly allows such manufacture by another person in the presence of a child, or in the presence of a child possesses a product containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, with the intent to use the product as a precursor or an intermediary to a dangerous substance.

(1) For the purposes of this paragraph, "in the presence of a child" means the physical presence of a child during the manufacture or possession, the manufacture or possession occurred in a child's home, on the premises, or in a motor vehicle located on the premises, or the manufacture or possession occurred under other circumstances in which a reasonably prudent person would know that the manufacture or possession may be seen, smelled, or heard by a child.

(2) For the purposes of this paragraph, "dangerous substance" means any of the following:

- (a) Amphetamine, its salts, isomers, or salts of its

isomers.

- (b) Methamphetamine, its salts, isomers, or salts of its isomers.

(c) A chemical or combination of chemicals that poses a reasonable risk of causing an explosion, fire, or other danger to the life or health of persons who are in the vicinity while the chemical or combination of chemicals is used or is intended to be used in any of the following:

- (i) The process of manufacturing an illegal or controlled substance.
- (ii) As a precursor in the manufacturing of an illegal or controlled substance.

**OREGON ORS § 419B.502**

OREGON REVISED STATUTES

TITLE 34. HUMAN SERVICES; JUVENILE  
CODE: CORRECTIONS

CHAPTER 419B. JUVENILE CODE:

DEPENDENCY

JUVENILE COURT

TERMINATION OF PARENTAL RIGHTS

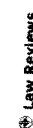
• ORS § 419B.502 (2003)

419B.502. Termination upon finding of extreme conduct.

The rights of the parent or parents may be terminated as provided in ORS 419B.500 if the court finds that the parent or parents are unfit by reason of a single or recurrent incident of extreme conduct toward any child. In such case, no efforts need to be made by available social agencies to help the parent adjust the conduct in order to make it possible for the child or ward to safely return home within a reasonable amount of time. In determining extreme conduct,



Resources & Practice Tools



3

- b. The type and appropriateness of the placement and services to be provided to the child.
- c. The care and services that will be provided to the child, biological parents, and foster parents.
- d. How the care and services will meet the needs of the child while in care and will facilitate the child's return home or other permanent placement.
- e. To the extent the records are available and accessible, a summary of the child's health and education records, including the date the records were supplied to the agency or individual who is the child's foster care provider.
- f. (1) When a child is sixteen years of age or older, a written transition plan of services which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to adulthood. The written plan of services and needs assessment shall be developed with any person who may reasonably be expected to be a service provider for the child when the child becomes an adult or to become responsible for the costs of services at that time, including but not limited to the administrator of county general relief under chapter 251 or 252 or of the central point of coordination process implemented under section 331.440. If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.
- (2) If the needs assessment indicates the child is reasonably likely to need or be eligible for services or other support from the adult service system upon reaching age eighteen, the transition plan shall be reviewed and approved by the transition committee for the area in which the child resides, in accordance with section 235.7, before the child reaches age seventeen and one-half. The transition committee's review and approval shall be indicated in the case permanency plan.
- g. The actions expected of the parent, guardian, or custodian in order for the department or agency to recommend that the court terminate a dispositional order for the child's out-of-home placement and for the department or agency to end its involvement with the child and the child's family.
- h. If reasonable efforts to place a child for adoption or with a guardian are made concurrently with reasonable efforts as defined in section 232.102, the concurrent goals and timelines may be identified. Concurrent case permanency plan goals for reunification, and for adoption or for other permanent out-of-home placement of a child shall not be considered inconsistent in that the goals reflect divergent possible outcomes for a child in an out-of-home placement.
- i. A provision that a designee of the department or other person responsible for placement of a child out of state shall visit the child at least once every twelve months.
- j. If it has been determined that the child cannot return to the child's home,

documentation of the steps taken to make and finalize an adoption or other permanent placement.

5. "Child" means a person under eighteen years of age.
6. "Child in need of assistance" means an unmarried child:
- a. Whose parent, guardian or other custodian has abandoned or deserted the child.
- b. Whose parent, guardian, other custodian, or other member of the household in which the child resides has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.
- c. Who has suffered or is imminently likely to suffer harmful effects as a result of either of the following:
- (1) Mental injury caused by the acts of the child's parent, guardian, or custodian.
- (2) The failure of the child's parent, guardian, custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.
- d. Who has been, or is imminently likely to be, sexually abused by the child's parent, guardian, custodian or other member of the household in which the child resides.
- e. Who is in need of medical treatment to cure, alleviate, or prevent serious physical injury or illness and whose parent, guardian or custodian is unwilling or unable to provide such treatment.
- f. Who is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.
- g. Whose parent, guardian, or custodian fails to exercise a minimal degree of care in supplying the child with adequate food, clothing or shelter and refuses other means made available to provide such essentials.
- h. Who has committed a delinquent act as a result of pressure, guidance, or approval from a parent, guardian, custodian, or other member of the household in which the child resides.
- i. Who has been the subject of or a party to sexual activities for hire or who poses for live display or for photographic or other means of pictorial reproduction or display which is designed to appeal to the prurient interest and is patently offensive; and taken as a whole, lacks serious literary, scientific, political or artistic value.
- j. Who is without a parent, guardian or other custodian.

2

the court shall consider the following:

- (1) Rape, sodomy or sex abuse of any child by the parent.
- (2) Intentional starvation or torture of any child by the parent.
- (3) Abuse or neglect by the parent of any child resulting in death or serious physical injury.
- (4) Conduct by the parent to aid or abet another person who, by abuse or neglect, caused the death of any child.
- (5) Conduct by the parent to attempt, solicit or conspire, as described in ORS 161.405, 161.435 or 161.450 or under comparable laws of any jurisdiction, to cause the death of any child.
- (6) Previous involuntary terminations of the parent's rights to another child if the conditions giving rise to the previous action have not been ameliorated.
- (7) Conduct by the parent that knowingly exposes any child of the parent to the storage or production of methamphetamine from precursors. In determining whether extreme conduct exists under this subsection, the court shall consider the extent of the child or ward's exposure and the potential harm to the physical health of the child or ward.

## South Dakota

### TITLE 26. MINORS CHAPTER 26-8A. PROTECTION OF CHILDREN FROM ABUSE OR NEGLECT

S.D. Codified Laws § 26-8A-2 (2003)

#### § 26-8A-2. Abused or neglected child

In this chapter and chapter 26-7A, the term, abused or neglected child, means a child:

- (1) Whose parent, guardian, or custodian has abandoned the child or has subjected the child to mistreatment or abuse;
- (2) Who lacks proper parental care through the actions or omissions of the child's parent, guardian, or custodian;
- (3) Whose environment is injurious to the child's welfare;
- (4) Whose parent, guardian, or custodian fails or refuses to provide proper or necessary subsistence, supervision, education, medical care, or any other care necessary for the child's health, guidance, or well-being;
- (5) Who is homeless, without proper care, or not domiciled with the child's parent, guardian, or custodian through no fault of the child's parent, guardian, or custodian;

(6) Who is threatened with substantial harm;

(7) Who has sustained emotional harm or mental injury as indicated by an injury to the child's intellectual or psychological capacity evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture;

(8) Who is subject to sexual abuse, sexual molestation, or sexual exploitation by the child's parent, guardian, custodian, or any other person responsible for the child's care;

⚡ **Cause Notes**

⚡ **History**

🔗 **Resources & Practice Tools**

📄 **Legislative Alert**

📄 **Law Reviews**

4

(9) Who was subject to prenatal exposure to abusive use of alcohol or any controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 34-20B; or

(10) Whose parent, guardian, or custodian knowingly exposes the child to an environment that is being used for the manufacturing of **methamphetamines**.

Rev. Code Wash. (ARCW) §  
9A.42.100

2005 by Matthew Bender & Company, Inc.,  
a member of the LexisNexis Group.  
All rights reserved.

TITLE 9A. WASHINGTON CRIMINAL CODE  
CHAPTER 9A.42. CRIMINAL MISTREATMENT

Rev. Code Wash. (ARCW) § 9A.42.100 (2004)

§ 9A.42.100. Endangerment with a controlled substance

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

STATE OF  
WASHINGTON  
CRIME

5





State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBa0413/?

GMM... 15... 1

MM  
4/11

ASSEMBLY AMENDMENT,  
TO 2005 ASSEMBLY BILL 213

CPS:  
change  
request  
sheet pls.

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 6: delete lines 6 and 7 and substitute:

3 "conviction and that the methamphetamine or controlled substance analog of

4 methamphetamine was manufactured under any of the following circumstances: "

5 → #. Page 2, line 8: before that line insert: #  
"(a) With the child physically present during the manufacture.

6 (b) In the child's home, on the premises of the child's home, or in a motor vehicle  
7 located on the premises of the child's home.

8 (c) Under any other circumstances in which a reasonable person should have

9 known that the manufacture would <sup>be</sup> seen, smelled, or heard by the child."

10 (END)