

**2005 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB213)**

Received: 04/19/2005

Received By: **gmalaise**

Wanted: **Soon**

Identical to LRB:

For: **Rob Kreibich (608) 266-0660**

By/Representing: **Vicki Halverson**

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

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - abuse and neglect**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Manufacturing methamphetamine in the presence of a child; define as "child abuse" for purposes of CHIPS jurisdiction

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**Instructions:**

Add to definition of "child abuse" manufacturing methamphetamine in the presence of a child as provided in a0413/1.

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**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>
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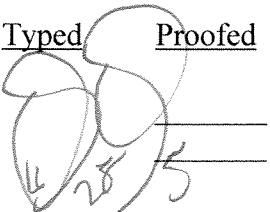
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# ARKANSAS CODE OF 1987 ANNOTATED

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(e)(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

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- 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,

Practitioner's Toolbox

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State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBs0093/7

GMM...

S~~200~~ This week  
= by 4/29

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2005 ASSEMBLY BILL 213

Gen

1 AN ACT ...; relating to: defining the manufacturing of methamphetamine in the  
2 presence of a child as child abuse, requiring the reporting and investigation of  
3 such child abuse, and granting the court assigned to exercise jurisdiction under  
4 the Children's Code child in need of protection or services jurisdiction over a  
5 child who is present during the manufacturing of methamphetamine.

*Analysis by the Legislative Reference Bureau*

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) has exclusive original jurisdiction over a child who is alleged to be in need of protection or services and who meets certain jurisdictional grounds, including the ground that the child has been the victim of abuse or is at substantial risk of becoming the victim of abuse and may impose certain dispositions on a child found to be in need of protection or services and the child's family. Current law defines "abuse," in part, as physical injury inflicted on a child by other than accidental means.

Under current law, certain individuals, such as physicians, nurses, social workers, teachers, day care providers, and law enforcement officers having reasonable cause to suspect that a child seen in the course of professional duties has been abused or having reason to believe that a child seen in the course of professional duties has been threatened with abuse and that abuse will occur must, and any

person having reason to suspect that a child has been abused or reason to believe that a child has been threatened with abuse and that abuse will occur may, report that suspected or threatened abuse to the sheriff, local police department, or county department of human services or social services (county department). On receipt of a report, the sheriff or local police department must immediately investigate to determine if there is reason to believe that the child's health or safety is in immediate danger and take necessary action to protect the child, and the county department must initiate a diligent investigation to determine if the child is in need of protection or services and, if the child is in need of services, offer to provide those services. If those services are refused, the county department may request the district attorney to file a petition alleging that the child is in need of protection or services (child abuse reporting law).

This substitute amendment expands the definition of "abuse" in the Children's Code to include manufacturing methamphetamine with a child physically present during the manufacture; in a child's home, on the premises of a child's home, or in a motor vehicle located on the premises of a child's home; or under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child. As such the bill grants to the juvenile court child in need of protection or services jurisdiction over such a child on the grounds that the child has been the victim of abuse or is at substantial risk of becoming the victim of abuse and expands the scope of the child abuse reporting law to require that such a child be reported and investigated under that law.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 1           SECTION 1. 48.02 (1) (g) of the statutes is created to read:
- 2           48.02 (1) (g) Manufacturing methamphetamine in violation of s. 961.41 (1) (e)
- 3 under any of the following circumstances:
- 4           1. With a child physically present during the manufacture.
- 5           2. In a child's home, on the premises of a child's home, or in a motor vehicle
- 6 located on the premises of a child's home.
- 7           3. Under any other circumstances in which a reasonable person should have
- 8 known that the manufacture would be seen, smelled, or heard by a child.
- 9           SECTION 2. 48.13 (3) of the statutes is amended to read:

1            48.13 (3) Who has been the victim of abuse, as defined in s. 48.02 (1) (a), (b),  
 2            (c), (d), (e) ~~or~~, (f), or (g), including injury that is self-inflicted or inflicted by another;

3            *History:* 1977 c. 29, 354; 1979 c. 298, 300, 334; 1985 a. 321; 1987 a. 285, 339, 403; 1993 a. 27, 363, 395, 474; 1995 a. 77, 275; 1997 a. 80; 2001 a. 2.

3            **SECTION 3.** 48.13 (3m) of the statutes is amended to read:

4            48.13 (3m) Who is at substantial risk of becoming the victim of abuse, as  
 5            defined in s. 48.02 (1) (a), (b), (c), (d), (e) ~~or~~, (f), or (g), including injury that is  
 6            self-inflicted or inflicted by another, based on reliable and credible information that  
 7            another child in the home has been the victim of such abuse;

8            *History:* 1977 c. 29, 354; 1979 c. 298, 300, 334; 1985 a. 321; 1987 a. 285, 339, 403; 1993 a. 27, 363, 395, 474; 1995 a. 77, 275; 1997 a. 80; 2001 a. 2.

8            **SECTION 4.** 48.981 (3) (a) 3. of the statutes is amended to read:

9            48.981 (3) (a) 3. A county department, the department, or a licensed child  
 10            welfare agency under contract with the department shall within 12 hours, exclusive  
 11            of Saturdays, Sundays, or legal holidays, refer to the sheriff or police department all  
 12            cases of suspected or threatened abuse, as defined in s. 48.02 (1) (b) to (f), reported  
 13            to it. For cases of suspected or threatened abuse, as defined in s. 48.02 (1) (a), (am),  
 14            (g), or (gm), or neglect, each county department, the department, and a licensed child  
 15            welfare agency under contract with the department shall adopt a written policy  
 16            specifying the kinds of reports it will routinely report to local law enforcement  
 17            authorities.

*History:* Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33, 279, 321.

18            **SECTION 5. Initial applicability.**

19            (1) MANUFACTURING METHAMPHETAMINE WITH CHILD PRESENT. This act first  
 20            applies to abuse, as defined in section 48.02 ~~91~~ (g) of the statutes, as created by this  
 21            act, that occurs on the effective date of this subsection.

22            (END)