



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2013 Assembly Bill 626

**Assembly Substitute
Amendment 2 and
Assembly Amendment 1 to
Assembly Substitute
Amendment 2**

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Background

The criminal offense of neglecting a child prohibits a person who is responsible for a child's welfare who, through his or her actions or failure to take action, from intentionally contributing to the neglect of the child. The penalties for doing so are as follows:

- A Class A misdemeanor.
- A Class H felony if bodily harm is a consequence.
- A Class F felony if great bodily harm is a consequence.
- A Class D felony if death is a consequence.

Even if a child does not actually become neglected, a person responsible for the child's welfare may still contribute to the neglect of the child if the natural and probable consequences of either the person's actions or failure to take action would be to cause the child to become neglected.

2013 Assembly Bill 626

2013 Assembly Bill 626 (hereinafter, "the bill") makes the following changes to the crime of "neglecting a child":

- Defines neglect to mean any of the following:
 - To fail, for reasons other than poverty, to provide a child "necessary care."

- To fail to provide a child with appropriate supervision due to the sustained consumption of alcohol or controlled substances.
- Defines “necessary care” to mean the care that is vital, based on all of the facts and circumstances, such as the child’s age, physical or emotional condition, and any special needs, for the physical or emotional health of the child, and includes any of the following:
 - Appropriate food.
 - Appropriate clothing.
 - Appropriate medical care.
 - Appropriate dental care.
 - The opportunity for education.
 - The protection from the exposure to the distribution, manufacture, or use of controlled substances.
- Provides that the penalties for violating the criminal offense of neglecting a child are a Class D, E, F, G, or I felony, or a Class A misdemeanor, depending upon the consequence to the child or the risk of the consequence of death, injury, or becoming a victim of a crime.
- Creates a rebuttable presumption that a “course of conduct creating an unreasonable and substantial risk of harm” exists if any of the following apply:
 - The child had not attained the age of six years at the start of the conduct or course of conduct.
 - The child has a physical, cognitive, or developmental disability that is discernible by an ordinary person viewing the child or that is actually known by the actor.

The bill also creates a crime of “repeated acts of neglect of the same child,” which prohibits any person who is responsible for a child’s welfare who, from at least three times in a specified period, neglecting, or contributing to the neglect of, that child. The penalties for violating this criminal offense range from a Class C felony to a Class H felony. In order to find the defendant guilty of this crime, the members of the jury must unanimously agree that at least three violations occurred to the same child within the specified period, but do not need to agree on which acts constitute the requisite number or which acts resulted in the death or harm.

Assembly Substitute Amendment 2

Assembly Substitute Amendment 2 (ASA 2) makes the following changes to the bill:

- Amends the definition of “necessary care” by doing both of the following:

- Adding “appropriate shelter” and “appropriate supervision” to the list of what constitutes “necessary care.”
- Clarifying the definition such that instead of referring to “care that is vital” the definition refers to “care that is critical to a child’s physical, emotional health, safety, welfare, or development.”
- Amends the definition of “neglect” to mean either of the following:
 - To fail, for reasons other than poverty, to provide a child the necessary care of appropriate food, appropriate clothing, appropriate medical care, appropriate dental care, the opportunity for education, appropriate shelter, or appropriate supervision.
 - To fail to provide a child with the necessary care of protection from the exposure to the distribution, manufacture, or use of controlled substances.
- Reorganizes the penalty structure for the crime of neglect of a child by changing what constitutes a Class F, G, H, or I felony.
- Eliminates the provisions related to repeated acts of neglect.

Assembly Amendment 1 to ASA 2

Assembly Amendment 1 (AA 1) to ASA 2 clarifies that “neglect” includes failing to provide a child with the necessary care or protection from the exposure to the distribution, manufacture, or use of both controlled substances and controlled substance analogs.

Bill History

ASA 2 was introduced by Representative Doyle and others on January 15, 2014. On March 13, 2014, the Assembly Committee on Criminal Justice voted to introduce AA 1 to ASA 2 by unanimous consent and voted to recommend adoption of AA 1 to ASA 2, by a vote of Ayes, 9; Noes, 0; and Absent, 2. The committee also voted to recommend adoption of ASA 2, as amended, by a vote of Ayes, 9; Noes, 0; and Absent, 2. The committee then voted to recommend passage of the bill, as amended, by a vote of Ayes, 9; Noes, 0; and Absent, 2.

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