

178

*Saddicker
Carroll
Tremmel*

SENATE/HOUSE FILE _____

BY (PROPOSED ATTORNEY GENERAL
BILL)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act applying child in need of assistance and child abuse
2 provisions to a child in whose presence a controlled substance
3 has been manufactured or possessed by the child's parent,
4 guardian, or custodian.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 232.2, subsection 6, Code 2001, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. p. Whose parent, guardian, or custodian
4 unlawfully manufactures a controlled substance, as defined in
5 section 124.101, in the presence of a child, or in the
6 presence of a child possesses a product containing ephedrine,
7 its salts, optical isomers, salts of optical isomers, or
8 pseudoephedrine, its salts, optical isomers, salts of optical
9 isomers, with the intent to use the product as a precursor to
10 an illegal substance or an intermediary to a controlled
11 substance.

12 For the purposes of this lettered paragraph "p", "in the
13 presence of a child" means the physical presence of a child
14 during the manufacture or possession, the manufacture or
15 possession occurred in a child's home, or the manufacture or
16 possession occurred under other circumstances in which a
17 reasonably prudent person would know that the manufacture or
18 possession may be seen or heard by a child.

19 Sec. 2. Section 232.68, subsection 2, Code 2001, is
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. g. The person responsible for the care of
22 a child has exposed the child or has allowed the child to
23 participate in or witness the manufacture of a controlled
24 substance, as defined in section 124.101.

25 EXPLANATION

26 This bill applies child in need of assistance and child
27 abuse jurisdiction provisions of the juvenile justice code to
28 a child in whose presence there has been manufacture or
29 possession of a controlled substance by the child's parent,
30 guardian, or custodian.

31 Code section 232.2, relating to the definition of child in
32 need of assistance, is amended. Under the bill, the
33 definition would include an unmarried child in whose presence
34 the parent, guardian, or custodian: unlawfully manufactures a
35 controlled substance as defined in the controlled substances

1 chapter, or possesses ephedrine, pseudoephedrine, or chemical
2 derivatives of those substances with the intent to use the
3 substances as a precursor to an illegal substance or
4 intermediary to a controlled substance. The term "in the
5 presence of a child" is defined to include manufacture or
6 possession occurring in the physical presence of a child, in
7 the home of a child, or under circumstances in which a
8 reasonably prudent person would know that the manufacture or
9 possession may be heard or seen by a child.

10 Code section 232.68, relating to child abuse definitions,
11 is amended. The bill includes in the definition of child
12 abuse, circumstances in which a person responsible for the
13 care of the child has exposed the child to or allowed the
14 child to participate in or witness the manufacture of a
15 controlled substance.

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Department of Justice

THOMAS J. MILLER
ATTORNEY GENERAL

MEMORANDUM

ADDRESS REPLY TO:
HOOVER BUILDING
DES MOINES, IOWA 50319
TELEPHONE: 515-281-5164
FACSIMILE: 515-281-4209

TO: Members of the General Assembly
FROM: Anne M. Bunz and Marilyn Lantz, Members of the General Assembly
DATE: January 8, 2001
SUBJECT: Children and Controlled Substances

Children become involved as innocent victims of persons who manufacture controlled substances. While these children are completely dependent upon their parent they are exposed to potentially explosive operating laboratories with chemicals and deadly gases. Manufacturing controlled substances also produces strong odors and dangerous gases that can be dangerous to the children if exposed. Families and communities have experienced tragic fires caused by explosive ingredients used to manufacture controlled substances.

Manufacturing controlled substances, coupled with the use of these controlled substances increases the risk of child abuse and neglect and domestic violence. In fact, children whose parents abuse alcohol and drugs approximately three times more likely than others to be physically or sexually abused, and more than four times more likely to be neglected

By amending the juvenile code, we could provide to families adequate resources and support that could help to turn their life around so that they could succeed.

REPRINTED

FEB 6 2001
Place On Calendar

HOUSE FILE 178
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 27)

Passed House, Date ^(P. 415) 2/14/01 Passed Senate, Date ^(P. 1047) 4-10-01
Vote: Ayes 96 Nays 1 Vote: Ayes 48 Nays 0
Approved April 18, 2001

A BILL FOR

1 An Act applying child in need of assistance and child abuse
2 provisions to a child whose parent or guardian or the person
3 responsible for the child's care has manufactured or possessed
4 a dangerous substance in a child's presence.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 178

1 Section 1. Section 232.2, subsection 6, Code 2001, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. p. Whose parent, guardian, or custodian
4 unlawfully manufactures a dangerous substance in the presence
5 of a child or in the presence of a child possesses a product
6 containing ephedrine, its salts, optical isomers, salts of
7 optical isomers, or pseudoephedrine, its salts, optical
8 isomers, salts of optical isomers, with the intent to use the
9 product as a precursor or an intermediary to a dangerous
10 substance.

11 (1) For the purposes of this paragraph "p", "in the
12 presence of a child" means the physical presence of a child
13 during the manufacture or possession, the manufacture or
14 possession occurred in a child's home or the home's premises,
15 or the manufacture or possession occurred under other
16 circumstances in which a reasonably prudent person would know
17 that the manufacture or possession may be seen, smelled, or
18 heard by a child.

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

21 (a) Amphetamine, its salts, isomers, or salts of its
22 isomers.

23 (b) Methamphetamine, its salts, isomers, or salts of its
24 isomers.

25 (c) A chemical or combination of chemicals used in the
26 process of manufacturing an illegal or controlled substance,
27 as a precursor to an illegal substance, or as an intermediary
28 to a controlled substance during which manufacturing process,
29 precursor stage, or intermediary process has a reasonable risk
30 of causing an explosion, fire, or other danger to the life or
31 health of persons in the vicinity of such stage or process.

32 Sec. 2. Section 232.68, subsection 2, Code 2001, is
33 amended by adding the following new paragraph:

34 NEW PARAGRAPH. g. The person responsible for the care of
35 a child has, in the presence of the child, as defined in

1 section 232.2, subsection 6, paragraph "p", manufactured a
2 dangerous substance, as defined in section 232.2, subsection
3 6, paragraph "p", or in the presence of the child possesses a
4 product containing ephedrine, its salts, optical isomers,
5 salts of optical isomers, or pseudoephedrine, its salts,
6 optical isomers, salts of optical isomers, with the intent to
7 use the product as a precursor or an intermediary to a
8 dangerous substance.

9 EXPLANATION

10 This bill applies child in need of assistance and child
11 abuse jurisdiction provisions of the juvenile justice code to
12 a child whose parent or the person responsible for the child's
13 care has manufactured or possessed a dangerous substance in
14 the child's presence.

15 Code section 232.2, relating to the definition of child in
16 need of assistance, is amended. Under the bill, the
17 definition would include an unmarried child in whose presence
18 the parent, guardian, or custodian: unlawfully manufactures a
19 dangerous substance as defined in the bill, or possesses
20 ephedrine, pseudoephedrine, or chemical derivatives of those
21 substances with the intent to use the substances as a
22 precursor or an intermediary to a dangerous substance. The
23 term "in the presence of a child" is defined to include
24 manufacture or possession occurring in the physical presence
25 of a child, in the child's home or the premises of the home,
26 or under circumstances in which a reasonably prudent person
27 would know that the manufacture or possession may be seen,
28 smelled, or heard by a child.

29 Code section 232.68, relating to child abuse definitions,
30 is amended. The bill includes in the definition of child
31 abuse, circumstances in which a person responsible for the
32 care of the child has, in the presence of a child,
33 manufactured a dangerous substance or possessed certain
34 substances used as a precursor or intermediary to a dangerous
35 substance.

HOUSE FILE 178

H-1049

- 1 Amend House File 178 as follows:
2 1. Page 1, by striking lines 3 through 5 and
3 inserting the following:
4 "NEW PARAGRAPH. p. Whose parent, guardian, or
5 custodian does any of the following: unlawfully
6 manufactures a dangerous substance in the presence of
7 a child, knowingly allows such manufacture by another
8 person in the presence of a child, or in the presence
9 of a child possesses a product".
10 2. Page 1, line 14, by striking the words "or the
11 home's premises" and inserting the following: ", on
12 the premises, or in a motor vehicle located on the
13 premises".
14 3. Page 1, by striking lines 25 through 31 and
15 inserting the following:
16 "(c) A chemical or combination of chemicals that
17 poses a reasonable risk of causing an explosion, fire,
18 or other danger to the life or health of persons who
19 are in the vicinity while the chemical or combination
20 of chemicals is used or is intended to be used in any
21 of the following:
22 (i) The process of manufacturing an illegal or
23 controlled substance.
24 (ii) As a precursor in the manufacturing of an
25 illegal or controlled substance.
26 (iii) As an intermediary in the manufacturing of
27 an illegal or controlled substance."

By BODDICKER of Cedar
TREMMELE of Wapello

H-1049 FILED FEBRUARY 12, 2001

Adopted
2/14/01
(p. 415)

**HOUSE FILE 178
FISCAL NOTE**

A fiscal note for **House File 178** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 178 amends the definition of "child in need of assistance" (CINA) and what may be defined as child abuse to include certain children who may witness the unlawful manufacturing and the possession of certain dangerous substances.

FISCAL IMPACT

The fiscal impact of House File 178 is expected to be minimal.

SOURCES

Department of Human Services
Judicial Department
Office of the Attorney General

(LSB 1184hv, SLL)

FILED FEBRUARY 8, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

2/14/01 Human Res-
S-3/29/01 Do Pass

HOUSE FILE 178
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 27)

(As Amended and Passed by the House February 14, 2001)

Passed House, Date _____ Passed Senate, Date 4-10-01
Vote: Ayes _____ Nays _____ Vote: Ayes 48 Nays 0
Approved April 18, 2001

A BILL FOR

1 An Act applying child in need of assistance and child abuse
2 provisions to a child whose parent or guardian or the person
3 responsible for the child's care has manufactured or possessed
4 a dangerous substance in a child's presence.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

1 Section 1. Section 232.2, subsection 6, Code 2001, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. p. Whose parent, guardian, or custodian
4 does any of the following: unlawfully manufactures a
5 dangerous substance in the presence of a child, knowingly
6 allows such manufacture by another person in the presence of a
7 child, or in the presence of a child possesses a product
8 containing ephedrine, its salts, optical isomers, salts of
9 optical isomers, or pseudoephedrine, its salts, optical
10 isomers, salts of optical isomers, with the intent to use the
11 product as a precursor or an intermediary to a dangerous
12 substance.

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

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

23 (a) Amphetamine, its salts, isomers, or salts of its
24 isomers.

25 (b) Methamphetamine, its salts, isomers, or salts of its
26 isomers.

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

32 (i) The process of manufacturing an illegal or controlled
33 substance.

34 (ii) As a precursor in the manufacturing of an illegal or
35 controlled substance.

1 (iii) As an intermediary in the manufacturing of an
2 illegal or controlled substance.

3 Sec. 2. Section 232.68, subsection 2, Code 2001, is
4 amended by adding the following new paragraph:

5 NEW PARAGRAPH. g. The person responsible for the care of
6 a child has, in the presence of the child, as defined in
7 section 232.2, subsection 6, paragraph "p", manufactured a
8 dangerous substance, as defined in section 232.2, subsection
9 6, paragraph "p", or in the presence of the child possesses a
10 product containing ephedrine, its salts, optical isomers,
11 salts of optical isomers, or pseudoephedrine, its salts,
12 optical isomers, salts of optical isomers, with the intent to
13 use the product as a precursor or an intermediary to a
14 dangerous substance.

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HOUSE FILE 178

AN ACT

APPLYING CHILD IN NEED OF ASSISTANCE AND CHILD ABUSE PROVISIONS
TO A CHILD WHOSE PARENT OR GUARDIAN OR THE PERSON RESPONSIBLE
FOR THE CHILD'S CARE HAS MANUFACTURED OR POSSESSED A DANGEROUS
SUBSTANCE IN A CHILD'S PRESENCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 232.2, subsection 6, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. 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 "p", "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 "p", "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.

(iii) As an intermediary in the manufacturing of an illegal or controlled substance.

Sec. 2. Section 232.68, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The person responsible for the care of a child has, in the presence of the child, as defined in section 232.2, subsection 6, paragraph "p", manufactured a dangerous substance, as defined in section 232.2, subsection 6, paragraph "p", or in the presence of the 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.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 178, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved April 18, 2001

THOMAS J. VILSACK
Governor