

Withdrawn  
3/15/04

FILED FEB 10 '04

SENATE FILE 2100  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2021)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act establishing a child endangerment offense for permitting  
2 the presence of a child or minor at a location where a  
3 controlled substance manufacturing or possession violation  
4 occurs and providing a penalty.

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

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

SF 2100 JUDICIARY

1 Section 1. Section 124.401C, subsection 1, Code 2003, is  
2 amended to read as follows:

3 1. In addition to any other penalties provided in this  
4 chapter, a person who is eighteen years of age or older and  
5 who either directly or by extraction from natural substances,  
6 or independently by means of chemical processes, or both,  
7 unlawfully manufactures methamphetamine, its salts, isomers,  
8 and salts of its isomers in the presence of a minor shall be  
9 sentenced up to an additional term of confinement of five  
10 years. However, the additional term of confinement shall not  
11 be imposed on a person who has been convicted and sentenced  
12 for a child endangerment offense under section 726.6,  
13 subsection 1, paragraph "g", arising from the same facts.

14 Sec. 2. Section 702.11, subsection 2, paragraph e, Code  
15 Supplement 2003, is amended to read as follows:

16 e. Child endangerment ~~resulting-in-bodily-injury-to-a~~  
17 ~~child-or-a-minor-in-violation-of~~ subject to penalty under  
18 section 726.6, subsection 5.

19 Sec. 3. Section 726.6, subsection 1, Code 2003, is amended  
20 by adding the following new paragraph:

21 NEW PARAGRAPH. g. Knowingly permits a child or minor to  
22 be present at a location where a controlled substance is  
23 manufactured in violation of section 124.401, subsection 1, or  
24 where a product is possessed in violation of section 124.401,  
25 subsection 4.

26 Sec. 4. Section 726.6, subsections 5 and 6, Code 2003, are  
27 amended to read as follows:

28 5. A person who commits child endangerment resulting in  
29 bodily injury to a child or minor or child endangerment in  
30 violation of subsection 1, paragraph "g" that does not result  
31 in a serious injury, is guilty of a class "D" felony.

32 6. A person who commits child endangerment that is not  
33 resulting-in-bodily-injury-or-serious-injury-to-a-child-or  
34 minor subject to penalty under subsection 4 or 5 is guilty of  
35 an aggravated misdemeanor.

1 EXPLANATION

2 This bill establishes a child endangerment offense for  
3 permitting the presence of a child or minor at a location  
4 where a controlled substance manufacturing or product  
5 possession violation occurs, but the violation does not result  
6 in a serious injury to the child.

7 The child endangerment offense occurs when a child or a  
8 minor is permitted to be present at a location where a  
9 controlled substance is manufactured in violation of Code  
10 section 124.401, subsection 1, or where a product is possessed  
11 with the intent to manufacture a controlled substance in  
12 violation of Code section 124.401, subsection 4. Code section  
13 124.401 is part of the offenses and penalties division of the  
14 controlled substances chapter. The referenced subsections  
15 include defined terms such as "manufacture" and a threshold  
16 for the amounts of controlled substances for which possession  
17 triggers a violation.

18 The bill classifies the new child endangerment offense as a  
19 class "D" felony, punishable by confinement for no more than  
20 five years and a fine of at least \$750 but not more than  
21 \$7,500.

22 Current law in Code section 124.401C provides that  
23 manufacture of methamphetamine and related substances in the  
24 presence of a minor is subject to an added penalty of  
25 confinement for five additional years. The bill provides that  
26 a person who has been convicted and sentenced under the bill's  
27 child endangerment offense is not subject to the Code section  
28 124.401C added penalty of five years.

29 The bill includes conforming amendments to Code sections  
30 702.11 and 726.6 to provide that the new offense is not a  
31 forcible felony.

32  
33  
34  
35

**SENATE FILE 2100**

**S-5015**

- 1 Amend Senate File 2100 as follows:
- 2 1. Page 1, by striking lines 1 through 13.
- 3 2. Title page, line 3, by inserting after the
- 4 word "or" the following: "product".
- 5 3. By renumbering as necessary.

**By LARRY MCKIBBEN**

**S-5015** FILED FEBRUARY 19, 2004

**SENATE FILE 2100**

**S-5059**

- 1 Amend Senate File 2100 as follows:
- 2 1. Page 1, line 22, by striking the words "a
- 3 controlled substance" and inserting the following:
- 4 "amphetamine, its salts, isomers, or salts of isomers,
- 5 or methamphetamine, its salts, isomers, or salts of
- 6 isomers".

**By LARRY MCKIBBEN**

**S-5059** FILED MARCH 9, 2004

**SENATE FILE 2100**

**S-5067**

- 1 Amend Senate File 2100 as follows:
- 2 1. Page 1, line 25, by inserting after the figure
- 3 "4." the following: "However, it is an affirmative
- 4 defense to a prosecution under this paragraph that the
- 5 person had reasonable grounds to believe that any
- 6 action to stop the endangering activity or to leave
- 7 the child's or minor's home would result in
- 8 substantial bodily harm to the person or to the child
- 9 or minor."

**By HERMAN C. QUIRMBACH**

**S-5067** FILED MARCH 10, 2004

**Fiscal Services Division  
Legislative Services Agency  
Fiscal Note**

---

SF 2100 - Child Endangerment - Controlled Substances (LSB 5200 SV)  
Analyst: Beth Lenstra (Phone: (515) 281-6301) (beth.lenstra@legis.state.ia.us)  
Fiscal Note Version — New  
Requested by Senator Larry McKibben

---

**Description**

Senate File 2100 establishes a child endangerment offense for permitting the presence of a child or minor at a location where a controlled substance is either manufactured or where products are possessed with the intent to manufacture a controlled substance. The offense is punishable as a Class D felony.

**Assumptions**

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. There is a six-month lag time from the effective date (July 1, 2004) of the proposed legislation to the date of first entry of affected offenders into the correctional system.
4. There were 438 child victims of abuse due to parents manufacturing methamphetamine or possessing its precursors in FY 2003. To the extent that persons endanger children or minors during the manufacture of controlled substances other than methamphetamine, there will be a higher correctional and fiscal impact than shown in this fiscal note.
5. Half of the cases will result in one person being charged with a Class D felony while half of the cases will result in both parents being charged with a Class D felony. This results in 657 people being charged under SF 2100. Half of these defendants will also be charged with a drug offense under current law. This results in 329 additional trials annually under SF 2100.
6. The FY 2003 conviction rate for Class D felony child endangerment was 58.0%, with 36.0% of convictions as charged. The remaining 64.0% of the convictions were pled down to a lesser offense, assumed to be aggravated misdemeanor child endangerment.
7. The FY 2003 imprisonment rate for a Class D felony was 51.5%; certain offenders received a penalty other than prison. The average length of stay in prison was 23 months.
8. The FY 2003 imprisonment rate for this class of aggravated misdemeanor was 14.4%; certain offenders received a penalty other than prison. The average length of stay in prison was ten months.
9. The FY 2003 jail incarceration rate was 41.6%; the average county jail term imposed was 40 days.
10. The marginal cost per day for State prison inmates is \$13.00. The marginal cost for county jail inmates is \$15.00.
11. The average length of stay on probation supervision for a Class D felony conviction is 26 months, and 18 months for an aggravated misdemeanor.

12. The average length of stay on parole supervision for a Class D felony conviction is 12 months, and 7 months for an aggravated misdemeanor conviction.
13. The average cost per day for parole or probation offender is \$1.88. The cost of one new Parole/Probation Officer II is approximately \$47,000 annually.
14. The median cost per case for indigent defense is \$1,000 for a Class D felony or aggravated misdemeanor.
15. The average court cost for a Class D felony trial is \$238 without a jury, or \$1,300 with a jury. These figures include the costs of a District Court Judge, court attendant, court reporter, and clerk of court staff.
16. There is no impact on the Department of Human Services' child protection system. Under current law, the Department considers both parents to be caretakers.

**Correctional Impact**

During FY 2005, SF 2100 will result in 96 additional offenders being convicted of child endangerment. Thirty-five convictions will be for a Class D felony and 61 convictions will be for an aggravated misdemeanor. For FY 2006 and each year thereafter, there will be 191 additional convictions, as follows: 69 Class D felonies and 122 aggravated misdemeanors.

During FY 2005, the 96 additional offenders will be sentenced as follows: 27 to State prison, 68 to probation, and 26 to county jail. Certain offenders will receive a split sentence, such as jail and probation.

During FY 2006 (annualized impact), there will be 191 additional offenders convicted of child endangerment, sentenced as follows: 54 to State prison, 146 to probation, and 51 to county jail. Certain offenders will receive a split sentence, such as jail and probation.

Admissions to the State prison system will increase by 27 in FY 2005, 54 in FY 2006, and 64 in FY 2009. The prison population will increase by 27 during FY 2005, 69 in FY 2006, and 92 in FY 2009.

Admissions to probation supervision will increase by 68 in FY 2005, 146 in FY 2006, and 191 in FY 2009.

Admissions to county jail will increase by 68 in FY 2005, 146 in FY 2006, and 191 in FY 2009.

**Fiscal Impact**

The estimated increase in State General Fund expenditures for FY 2005 is \$218,000 and \$748,000 for FY 2006. A detailed breakdown of expenditures is as follows:

	<u>FY 2005</u>	<u>FTEs</u>	<u>FY 2006</u>	<u>FTEs</u>
Corrections - Prisons	\$ 64,000		\$ 340,000	
CBC - Parole/Probation	23,000	0.48	147,000	3.10
Courts	48,000		96,000	
Indigent Defense	83,000		165,000	
<b>Total</b>	<u>\$ 218,000</u>	<u>0.48</u>	<u>\$ 748,000</u>	<u>3.10</u>

The fiscal impact on county jail costs is estimated to be \$16,000 in FY 2005 and \$31,000 in FY 2006.

**Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Department of Corrections  
Judicial Branch  
Department of Human Services  
Office of the State Public Defender

Dennis C Prouty

---

February 12, 2004

---

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

---