

**House File 543 - Introduced**

HOUSE FILE 543  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO HF 276)

**A BILL FOR**

1 An Act relating to child in need of assistance and child abuse  
2 cases involving certain drugs and other substances.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.2, subsection 6, paragraph p, Code  
2 2017, is amended to read as follows:

3 *p.* Whose parent, guardian, ~~or~~ custodian, or other adult  
4 member of the household in which a child resides does any  
5 of the following: unlawfully uses, possesses, manufactures,  
6 cultivates, or distributes a dangerous substance in the  
7 presence of a child~~;~~ or knowingly allows such use, possession,  
8 manufacture, cultivation, or distribution by another person  
9 in the presence of a child~~;~~ ~~or in the presence of a child~~  
10 ~~possesses a product containing ephedrine, its salts, optical~~  
11 ~~isomers, salts of optical isomers, or pseudoephedrine, its~~  
12 ~~salts, optical isomers, salts of optical isomers,~~ with the  
13 intent to use the product as a precursor or an intermediary to  
14 a dangerous substance in the presence of a child; or unlawfully  
15 uses, possesses, manufactures, cultivates, or distributes a  
16 dangerous substance specified in subparagraph (2), subparagraph  
17 division (a), (b), or (c), in a child's home, on the premises,  
18 or in a motor vehicle located on the premises.

19 (1) For the purposes of this paragraph, "*in the presence*  
20 *of a child*" means in the physical presence of a child ~~during~~  
21 ~~the manufacture or possession, the manufacture or possession~~  
22 ~~occurred in a child's home, on the premises, or in a motor~~  
23 ~~vehicle located on the premises, or the manufacture or~~  
24 ~~possession occurred~~ or occurring under other circumstances  
25 in which a reasonably prudent person would know that the  
26 use, possession, manufacture or possession, cultivation, or  
27 distribution may be seen, smelled, ingested, or heard by a  
28 child.

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

31 (a) Amphetamine, its salts, isomers, or salts of its  
32 isomers.

33 (b) Methamphetamine, its salts, isomers, or salts of its  
34 isomers.

35 (c) A chemical or combination of chemicals that poses a

1 reasonable risk of causing an explosion, fire, or other danger  
2 to the life or health of persons who are in the vicinity while  
3 the chemical or combination of chemicals is used or is intended  
4 to be used in any of the following:

5 (i) The process of manufacturing an illegal or controlled  
6 substance.

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

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

11 (d) Cocaine, its salts, isomers, salts of its isomers, or  
12 derivatives.

13 (e) Heroin, its salts, isomers, salts of its isomers, or  
14 derivatives.

15 (f) Opium and opiate, and any salt, compound, derivative, or  
16 preparation of opium or opiate.

17 Sec. 2. Section 232.68, subsection 2, paragraph a,  
18 subparagraph (7), Code 2017, is amended to read as follows:

19 (7) The person responsible for the care of a child ~~has,~~  
20 in the presence of ~~the~~ a child, as defined in section 232.2,  
21 subsection 6, paragraph "p", ~~manufactured~~ unlawfully uses,  
22 possesses, manufactures, cultivates, or distributes a dangerous  
23 substance, as defined in section 232.2, subsection 6, paragraph  
24 "p", ~~or in the presence of the child~~ knowingly allows such  
25 use, possession, manufacture, cultivation, or distribution  
26 by another person in the presence of a child; possesses a  
27 product containing ephedrine, its salts, optical isomers, salts  
28 of optical isomers, or pseudoephedrine, its salts, optical  
29 isomers, salts of optical isomers, with the intent to use  
30 the product as a precursor or an intermediary to a dangerous  
31 substance in the presence of a child; or unlawfully uses,  
32 possesses, manufactures, cultivates, or distributes a dangerous  
33 substance specified in section 232.2, subsection 6, paragraph  
34 "p", subparagraph (2), subparagraph division (a), (b), or (c),  
35 in a child's home, on the premises, or in a motor vehicle

1 located on the premises.

2 Sec. 3. Section 232.77, subsection 2, Code 2017, is amended  
3 to read as follows:

4 2. a. If a health practitioner discovers in a child  
5 physical or behavioral symptoms of the effects of exposure  
6 to cocaine, heroin, amphetamine, methamphetamine, or other  
7 illegal drugs, or combinations or derivatives thereof, which  
8 were not prescribed by a health practitioner, or if the health  
9 practitioner has determined through examination of the natural  
10 mother of the child that the child was exposed in utero, the  
11 health practitioner may perform or cause to be performed a  
12 medically relevant test, as defined in [section 232.73](#), on the  
13 child. The practitioner shall report any positive results of  
14 such a test on the child to the department. The department  
15 shall begin an assessment pursuant to [section 232.71B](#) upon  
16 receipt of such a report. A positive test result obtained  
17 prior to the birth of a child shall not be used for the criminal  
18 prosecution of a parent for acts and omissions resulting in  
19 intrauterine exposure of the child to an illegal drug.

20 b. If a health practitioner involved in the delivery or  
21 care of a newborn or infant discovers in the newborn or infant  
22 physical or behavioral symptoms that are consistent with the  
23 effects of prenatal drug exposure or a fetal alcohol spectrum  
24 disorder, the health practitioner shall report such information  
25 to the department in a manner prescribed by rule of the  
26 department.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with  
29 the explanation's substance by the members of the general assembly.

30 This bill relates to certain drugs and other substances and  
31 child in need of assistance and child abuse cases.

32 The bill amends the definition of a child in need of  
33 assistance to provide that an unmarried child whose parent,  
34 guardian, custodian, or other adult member of the child's  
35 household unlawfully uses, possesses, manufactures, cultivates,

1 or distributes a dangerous substance in the presence of a child  
2 or knowingly allows such activities by another person in the  
3 presence of a child; possesses a product with the intent to use  
4 the product as a precursor or an intermediary to a dangerous  
5 substance in the presence of a child; or unlawfully uses,  
6 possesses, manufactures, cultivates, or distributes a dangerous  
7 substance that is an amphetamine, a methamphetamine, or a  
8 chemical or chemicals that pose a reasonable risk of causing a  
9 fire or explosion in a child's home, on the premises, or in a  
10 motor vehicle located on the premises, may be the subject of a  
11 child in need of assistance petition.

12 The bill amends the definition of child abuse to provide that  
13 a person responsible for the care of a child who unlawfully  
14 uses, possesses, manufactures, cultivates, or distributes a  
15 dangerous substance in the presence of a child or knowingly  
16 allows such activities by another person in the presence of a  
17 child; possesses a product with the intent to use the product  
18 as a precursor or an intermediary to a dangerous substance  
19 in the presence of a child; or unlawfully uses, possesses,  
20 manufactures, cultivates, or distributes a dangerous substance  
21 that is an amphetamine, a methamphetamine, or a chemical or  
22 chemicals that pose a reasonable risk of causing a fire or  
23 explosion in a child's home, on the premises, or in a motor  
24 vehicle located on the premises may be the subject of an  
25 allegation of child abuse.

26 The bill amends the definitions of "in the presence of a  
27 child" and "dangerous substance" for purposes of both child  
28 in need of assistance and child abuse definitions. "In  
29 the presence of a child" means in the physical presence of  
30 a child or occurring under other circumstances in which a  
31 reasonably prudent person would know that the use, possession,  
32 manufacture, cultivation, or distribution may be seen,  
33 smelled, ingested, or heard by a child. The bill includes  
34 cocaine, heroin, and opium or opiates in the list of dangerous  
35 substances.

1 The bill requires a health practitioner involved in the  
2 delivery or care of a newborn or infant, who discovers in the  
3 newborn or infant physical or behavioral symptoms that are  
4 consistent with the effects of prenatal drug exposure or a  
5 fetal alcohol spectrum disorder, to report such information  
6 to the department of human services in a manner prescribed by  
7 rule of the department. "Health practitioner" is defined in  
8 Code section 232.2 to mean a licensed physician or surgeon,  
9 osteopathic physician or surgeon, dentist, optometrist,  
10 podiatric physician, or chiropractor, a resident or intern  
11 of any such profession, and any registered nurse or licensed  
12 practical nurse. This reporting requirement is required under  
13 the federal Child Abuse Prevention and Treatment Act (CAPTA).