

**Senate File 88 - Introduced**

SENATE FILE 88

BY SALMON

**A BILL FOR**

1 An Act relating to the presence of an illegal drug in a  
2 newborn's body, and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 135.131A Newborn umbilical cord  
2 drug testing.

3 1. For the purposes of this section, unless the context  
4 otherwise requires:

5 a. "Birth center" means birth center as defined in section  
6 135.61.

7 b. "Birthing hospital" means a private or public hospital  
8 licensed pursuant to chapter 135B that has a licensed obstetric  
9 unit or is licensed to provide obstetric services.

10 2. All newborns born in a birth center or birthing hospital  
11 in this state shall be tested for the presence of an illegal  
12 drug in the newborn's body. The test shall be conducted  
13 utilizing blood from the newborn's umbilical cord pursuant to  
14 rules of the department.

15 3. The department shall adopt rules as necessary for the  
16 administration of this section pursuant to chapter 17A.

17 Sec. 2. Section 232.96A, Code 2023, is amended by adding the  
18 following new subsection:

19 NEW SUBSECTION. 18. The child is a newborn infant in whose  
20 body there is an illegal drug present at the time of birth. The  
21 presence of the illegal drug shall be determined in accordance  
22 with section 135.131A.

23 Sec. 3. Section 726.6, subsection 1, Code 2023, is amended  
24 by adding the following new paragraph:

25 NEW PARAGRAPH. j. By act or omission, an illegal drug  
26 is found to be present in the newborn's body and the drug's  
27 presence is a direct and foreseeable consequence of the act or  
28 omission. Unless the presence of the illegal drug caused death  
29 or serious injury to the newborn, the drug's presence shall be  
30 considered to have caused bodily injury to the newborn. For  
31 purposes of this paragraph, "newborn" means an infant who is  
32 three days of age or younger.

33 Sec. 4. Section 726.6, subsection 7, Code 2023, is amended  
34 to read as follows:

35 7. A person who commits child endangerment resulting in

1 bodily injury to a child or minor or child endangerment in  
2 violation of [subsection 1](#), paragraph "g" or "j", that does  
3 not result in a serious injury, or a person who commits child  
4 endangerment in violation of [subsection 2](#), is guilty of a class  
5 "D" felony.

6 EXPLANATION

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

9 This bill relates to the presence of an illegal drug in a  
10 newborn's body.

11 The bill provides that each newborn born in a birth center  
12 or birthing hospital is required to be tested for the presence  
13 of an illegal drug in the newborn's body. The test shall  
14 be conducted utilizing umbilical cord testing pursuant to  
15 administrative rules. Positive tests shall be reported to the  
16 department of health and human services. The bill directs  
17 the department to adopt rules as necessary to administer the  
18 provisions of the bill pursuant to Code chapter 17A.

19 The bill provides that a newborn with an illegal drug present  
20 in the newborn's body at the time of birth provides grounds for  
21 a court to adjudicate that the newborn is a child in need of  
22 assistance pursuant to Code section 232.96A.

23 The bill establishes a child endangerment offense for an act  
24 or omission which causes an illegal drug to be present in the  
25 body of the newborn if the presence of the illegal drug in the  
26 body of the newborn is a direct and foreseeable consequence of  
27 the act or omission. The term "newborn" means an infant who  
28 is three days of age or younger. Unless the presence of the  
29 illegal drug caused death or serious injury to the newborn, the  
30 drug's presence is considered to have caused bodily injury to  
31 the newborn.

32 A child endangerment offense that causes bodily injury to a  
33 child is a class "D" felony. A class "D" felony is punishable  
34 by confinement for no more than five years and a fine of at  
35 least \$1,025 but not more than \$10,245.