

HOUSE BILL NO. HB0215

Drug induced infant endangerment.

Sponsored by: Representative(s) Blackburn, Jennings, Olsen
and Winters and Senator(s) Driskill

A BILL

for

1 AN ACT relating to crimes and offenses; creating the crimes
2 of drug induced infant homicide and drug induced infant
3 abuse; amending definition of abuse for provisions related
4 to child protective services as specified; providing
5 enhanced penalties in cases where a person delivers
6 controlled substances to a pregnant woman; providing for
7 presumptions and affirmative defenses; providing penalties;
8 and providing for an effective date.

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10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 6-2-108 by creating new subsections
13 (c) and (d), 6-2-503 by creating new subsections (d)
14 through (f), 14-3-202(a)(ii)(intro) and by creating a new

1 subparagraph (E), 35-7-1036 by creating new subsections (c)
2 and (d) are amended to read:

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4 **6-2-108. Drug induced homicide; drug induced infant**
5 **homicide; penalties.**

6

7 (c) A person is guilty of drug induced infant
8 homicide if:

9

10 (i) The person knows or reasonably should know
11 themselves to be pregnant and intentionally injects,
12 inhales, ingests or administers by any other means, in
13 violation of W.S. 35-7-1039, any amount of methamphetamine
14 or a controlled substance which is a narcotic drug listed
15 in Schedule I or II of the Wyoming Controlled Substances
16 Act;

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18 (ii) During or after the person's injection,
19 inhalation, ingestion or administration of the substance
20 specified in paragraph (i) of this subsection, the person
21 gives birth to an infant who at the time of the live birth,
22 as defined by W.S. 35-1-401(a)(v), is at viability, as
23 defined by W.S. 35-6-101(a)(vii); and

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(iii) The infant dies after the live birth and the person's injection, inhalation, ingestion or administration of the substance specified in paragraph (i) of this subsection was a contributing factor in the infant's death.

(d) Drug induced infant homicide is a felony punishable by imprisonment for not more than ten (10) years.

6-2-503. Child abuse; drug induced infant abuse; penalties.

(d) A person is guilty of drug induced infant abuse if:

(i) The person knows or reasonably should know themselves to be pregnant and intentionally injects, inhales, ingests or administers by any other means, in violation of W.S. 35-7-1039, any amount of methamphetamine or a controlled substance which is a narcotic drug listed

1 in Schedule I or II of the Wyoming Controlled Substances
2 Act;

3
4 (ii) During or after the person's injection,
5 inhalation, ingestion or administration of the substance
6 specified in paragraph (i) of this subsection, the person
7 gives birth to an infant who at the time of the live birth,
8 as defined by W.S. 35-1-401(a)(v), tests positive for any
9 amount of the substance specified in paragraph (i) of this
10 subsection.

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12 (e) Drug induced infant abuse is a felony punishable
13 by imprisonment for not more than five (5) years.

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15 (f) It is an affirmative defense to a prosecution
16 under subsection (d) of this section that the person sought
17 treatment for substance abuse before the infant was born
18 and, after giving birth to the infant, continued and
19 successfully completed the treatment.

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21 **14-3-202. Definitions.**

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23 (a) As used in W.S. 14-3-201 through 14-3-216:

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2 (ii) "Abuse" means inflicting or causing
3 physical or mental injury, harm or imminent danger to the
4 physical or mental health or welfare of a child other than
5 by accidental means, including abandonment, unless the
6 abandonment is a relinquishment substantially in accordance
7 with W.S. 14-11-101 through 14-11-109, excessive or
8 unreasonable corporal punishment, malnutrition or
9 substantial risk thereof by reason of intentional or
10 unintentional neglect, ~~and~~ the commission of or allowing
11 the commission of a sexual offense against a child as
12 defined by law or engaging in a course of conduct that
13 results in a child testing positive at live birth for
14 methamphetamine or a controlled substance which is a
15 narcotic drug listed in Schedule I or II of the Wyoming
16 Controlled Substances Act:

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18 (E) "Live birth" means as defined by W.S.
19 35-1-401(a)(v).

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21 **35-7-1036. Distribution to person under 18; drug free**
22 **school zones; delivery to pregnant women.**

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1 (c) Any person who violates W.S. 35-7-1031(a) by
2 delivering methamphetamine or a controlled substance which
3 is a narcotic drug listed in Schedule I or II to a person
4 who he knows or reasonably should know is pregnant is
5 punishable as follows:

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7 (i) Except as provided in paragraph (ii) of this
8 section, by the fine authorized by W.S. 35-7-1031(a)(i), by
9 a term of imprisonment of not less than ten (10) years nor
10 more than twenty-five (25) years, or both;

11
12 (ii) If the pregnancy of the person to whom he
13 delivered the methamphetamine or the controlled substance
14 terminated in whole or in part, regardless of whether the
15 human embryo or fetus survived, as a result of the person's
16 injection, inhalation, ingestion or administration by any
17 other means of any amount of the methamphetamine or the
18 controlled substance he delivered, by a fine of not more
19 than fifty thousand dollars (\$50,000.00), a term of
20 imprisonment for not less than twenty (20) years nor more
21 than fifty (50) years, or both.

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1 (d) For purposes of sentencing under subsection (c)
2 of this section, if the person to whom he delivered the
3 methamphetamine or the controlled substance which is a
4 narcotic drug listed in Schedule I or II is:

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6 (i) Less than sixteen (16) weeks pregnant at the
7 time of delivery, there is a rebuttable presumption that he
8 did not reasonably know the person was pregnant;

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10 (ii) Between sixteen (16) weeks and twenty-two
11 (22) weeks pregnant at the time of delivery, there is no
12 presumption on whether he reasonably knew the person was
13 pregnant;

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15 (iii) More than twenty-two (22) weeks pregnant
16 at the time of delivery, it shall be presumed he reasonably
17 knew the person was pregnant.

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19 **Section 2.** This act is effective July 1, 2017.

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(END)