

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO.

Child endangering-controlled substance use while pregnant.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to crimes and offenses; creating a new  
2 endangering children felony; providing a penalty; and  
3 providing for an effective date.

4

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

6

7 **Section 1.** W.S. 6-4-405 by creating a new subsection  
8 (c) and by amending and renumbering subsection (c) as (d)  
9 and 35-7-1037 are amended to read:

10

11 **6-4-405. Endangering children; controlled substances;**  
12 **penalty.**

13

1        (c) No person, while pregnant, shall knowingly  
2 consume methamphetamine or a controlled substance  
3 classified in Schedule I or II that is a narcotic drug, as  
4 defined in W.S. 35-7-1002(a)(xv), unless prescribed by a  
5 licensed healthcare professional.

6  
7        ~~(e)~~(d) Any person who violates any of the provisions  
8 of subsection (a) or (b) of this section or commits a  
9 second or subsequent violation of subsection (c) of this  
10 section is guilty of endangering a child punishable by  
11 imprisonment for not more than five (5) years, a fine of  
12 not more than five thousand dollars (\$5,000.00), or both.  
13 For a first offense under subsection (c) of this section,  
14 the court shall sentence the person to a term of probation  
15 and shall include as conditions of probation that the  
16 person complete an addiction severity index (ASI)  
17 assessment and American society of addiction medicine  
18 (ASAM) placement evaluation and complete appropriate  
19 treatment consistent with the ASI/ASAM results. For a  
20 violation of subsection (c) of this section, the court may  
21 enter a deferred sentence in accordance with W.S. 7-13-301  
22 or 35-7-1037.

23

1 \*\*\*\*\*  
 2 \*\*\*\*\*  
 3 STAFF COMMENT  
 4 The original 2022 HB0085 had the following new language as  
 5 the last sentences in subsection (d):

6  
 7 For a first offense under subsection (c) of this section,  
 8 the court shall initially order probation, an addiction  
 9 severity index (ASI) assessment and American society of  
 10 addiction medicine (ASAM) placement evaluation and  
 11 appropriate treatment pursuant to the ASI/ASAM results.  
 12 Notwithstanding any other provision of law, for a violation  
 13 of subsection (c) of this section, the court may enter a  
 14 deferred sentence under W.S. 7-13-301 or 35-7-1037.

15  
 16 In determining the specific language to use the Committee  
 17 may wish to clarify whether a person who violates the new  
 18 W.S. 6-4-405(c):

- 19
- 20 • Should be able to receive multiple deferrals under the
- 21 same section.
- 22 • Should be able to receive a deferral under either 7-
- 23 13-301 or 35-7-1037 regardless of other unrelated
- 24 prior convictions.
- 25

26 Under existing law a person may only receive a deferral  
 27 once under each section, and certain prior convictions may  
 28 make them ineligible entirely.

29 \*\*\*\*\*  
 30 \*\*\*\*\*  
 31

32 35-7-1037. Probation and discharge of first  
 33 offenders.

34  
 35 Whenever any person who has not previously been convicted  
 36 of any offense under this act or under any statute of the  
 37 United States or of any state relating to narcotic drugs,  
 38 marihuana, or stimulant, depressant, or hallucinogenic

1 drugs, pleads guilty to or is found guilty of possession of  
2 a controlled substance under W.S. 35-7-1031(c) or 35-7-  
3 1033(a)(iii)(B), ~~or~~ pleads guilty to or is found guilty of  
4 using or being under the influence of a controlled  
5 substance under W.S. 35-7-1039 or pleads guilty to or is  
6 found guilty of a first offense violation of child  
7 endangerment under W.S. 6-4-405(c), the court, without  
8 entering a judgment of guilt and with the consent of the  
9 accused, may defer further proceedings and place him on  
10 probation upon terms and conditions. Any term of probation  
11 imposed under this section for a felony offense shall not  
12 exceed the maximum term of probation authorized under W.S.  
13 7-13-302(b). Upon violation of a term or condition, the  
14 court may enter an adjudication of guilt and proceed as  
15 otherwise provided. Upon fulfillment of the terms and  
16 conditions, the court shall discharge the person and  
17 dismiss the proceedings against him. Discharge and  
18 dismissal under this section shall be without adjudication  
19 of guilt and is not a conviction for purposes of this  
20 section or for purposes of disqualifications or  
21 disabilities imposed by law upon conviction of a crime,  
22 including the additional penalties imposed for second or  
23 subsequent convictions under W.S. 35-7-1038. There may be

1 only one (1) discharge and dismissal under this section  
2 with respect to any person. This section shall not be  
3 construed to provide an exclusive procedure. Any other  
4 procedure provided by law relating to suspension of trial  
5 or probation, may be followed, in the discretion of the  
6 trial court.

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8 \*\*\*\*\*  
9 \*\*\*\*\*

10 STAFF COMMENT  
11 As there is no penalty specified for a first offense of the  
12 newly created subsection (c), W.S. 6-10-101 and 103 would  
13 make it a misdemeanor punishable by not more than 6 months,  
14 a \$750.00 fine or both.

15  
16 The committee may wish to consider whether subsection (c)  
17 should be expungable. As currently drafted, a felony  
18 conviction for a second or subsequent offense would not be  
19 expungable pursuant to W.S. 7-13-1502(a)(iv)(N).

20 \*\*\*\*\*  
21 \*\*\*\*\*

22

23 Section 2. This act is effective July 1, 2023.

24

25 (END)