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1351

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Deanna Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE JUDICIARY

HB 1351

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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1351

House Judiciary Committee

☐ Conference Committee

Hearing Date 1-22-03

Tape Number	Side A	Side B	Meter #
3	xx		11-20
Committee Clerk Signature <i>A. Penrose</i>			

Minutes: 11 members present, 2 members absent (Rep. Bernstein, Rep. Maragos)

Chairman DeKrey: We will open the hearing on HB 1351.

Jonathan Byers, Asst. A.G.: (see attached testimony) Support.

Rep. Delmore: What are the penalties for Class C felonies.

Mr. Byers: Class A felony, which other than murder, is the highest classification. The maximum penalties for that is 20 years in prison or \$10,000 or a combination. Class B felony, which would be the second step down, that is a maximum of 10 years in prison, or \$10,000 or a combination, and for a Class C felony, the maximum penalty is 5 years in prison or \$5,000 or a combination. I am aware that there is another bill which has been introduced in the legislature, to increase those maximums, I'm not sure where that is at.

Rep. Klemin: Looking at pg 2 line 5 and 6, where you talk about a child or vulnerable adult, actually suffers bodily injuries, substantial bodily injuries, or serious bodily injury, why do we have to say all three of those, when you only have one penalty.

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Page 2
House Judiciary Committee
Bill/Resolution Number HB 1351
Hearing Date 1-22-03

Mr. Byers: The reason those terms are used there, is because each of those is specifically designed within the criminal code and so by using those terms, we would know what it would constitute to simply bodily injury, or substantial or serious.

Rep. Klemin: I haven't seen what those definitions actually say, but it looks like we are talking about various degrees here of bodily injury, from the least to the most, but wouldn't substantial and serious bodily injury be inclusive of bodily injury.

Mr. Byers: I think that it would probably be inclusive. This language actually came from the Utah version of the statute, and I was interested to see that they used exactly the same terms that we have in our criminal statutes for assault, for instance. When I drafted the statute, I simply used those terms because they were in Utah's version and they are terms we know and have defined in our statutes.

Rep. Klemin: But the penalty is the same, regardless of what it is.

Mr. Byers: The penalty is the same, unless it then results in a death.

Chairman DeKrey: Thank you. Anyone else wishing to testify in support of HB 1351.

Sgt. Pat Claus, Fargo Police Dept., Sgt. in charge of the narcotics/gang unit: Support. I am concerned about children, often they aren't removed from the home or from dangerous situations. Clearly, this bill will remove the child from a dangerous situation. This may break the cycle of 2nd and 3rd generations.

Chairman DeKrey: Thank you. Anyone else wishing to testify in favor of HB 1351, opposition to HB 1351? We will close the hearing.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1351

House Judiciary Committee

☐ Conference Committee

Hearing Date 1-28-03

Tape Number	Side A	Side B	Meter #
1	xx		42-48
Committee Clerk Signature <i>M. Penrose</i>			

Minutes: 12 members present, 1 member absent (Rep. Maragos)

Chairman DeKrey: We will open the hearing on HB 1351.

Sandi Tabor, Deputy AG: This is the bill regarding the stricter penalties for the endangerment of children and vulnerable adults. The Attorney General has requested that the Committee consider putting on an Emergency clause to this bill. (see attached amendments) John Byers will answer any questions.

Rep. Klemm: John, line 5 and 6 talk about different degrees of bodily injury and the penalty is the same for all of them. Is there a reason that you need to say all three terms.

Mr. Byers: I did take another look at that, and I do believe that if it simply said bodily injury, the logical extension would be anything more serious than that would qualify and therefore it may be extra language. It doesn't hurt anything to be in there.

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Dennis Hall
Operator's Signature

10/3/03
Date

Page 2
House Judiciary Committee
Bill/Resolution Number HB 1351
Hearing Date 1-28-03

Rep. Klemin: Then it may be open to some arguments. It wouldn't really affect the intent of the bill if we just removed those two terms, substantial bodily injury and serious bodily injury out of this. We would remove the argument.

Rep. Klemin: I move that we amend the bill on pg 2, line 3 and pg 2 line 5 & 6, deleting the words substantial bodily injury, or serious bodily injury.

Rep. Grande: Seconded.

Voice vote: 12 yes 0 no.

Rep. Kretschmar: Move the amendment of the Attorney General for the emergency clause.

Rep. Delmore: Seconded.

Voice vote: 12 yes 0 no.

Rep. Delmore: I move a Do Pass as amended.

Rep. Grande: Seconded.

12 YES 0 NO 1 ABSENT DO PASS W/AMENDMENTS CARRIER: Rep. Klemin

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10/3/03
Date

38291.0101
Title.0200

Adopted by the Judiciary Committee
January 28, 2003

VR
1/28/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1351 JUD 1-29-03

Page 1, line 2, remove "and"

Page 1, line 3, after "penalty" insert "; and to declare an emergency"

HOUSE AMENDMENTS TO HB 1351 JUD 1-29-03
Page 2, line 5, remove the second comma

Page 2, line 6, remove "substantial bodily injury, or serious bodily injury"

Page 2, after line 14, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Page No. 1

38291.0101

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Dennis Halliwell
Operator's Signature

10/3/03
Date

Date: 1/28/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1351

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38291.0101 .0200

Action Taken Do Pass as Amend.

Motion Made By Rep. Delmore Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	AB		Rep. Eckre	✓	
Rep. Bernstein	✓		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	✓				
Rep. Grande	✓				
Rep. Kingsbury	✓				
Rep. Klemm	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Klemm

If the vote is on an amendment, briefly indicate intent:

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Operator's Signature [Signature] Date 10/3/03

REPORT OF STANDING COMMITTEE (410)
January 29, 2003 12:03 p.m.

Module No: HR-17-1245
Carrier: Klemm
Insert LC: 38291.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1351: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1351 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "and"

Page 1, line 3, after "penalty" insert "; and to declare an emergency"

Page 2, line 5, remove the second comma

Page 2, line 6, remove "substantial bodily injury, or serious bodily injury"

Page 2, after line 14, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

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10/3/03
Date

2003 SENATE JUDICIARY

HB 1351

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10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

Engrossed BILL/RESOLUTION NO. HB 1351

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 03/04/03

Tape Number	Side A	Side B	Meter #
3	X		4.4 - 6.1
Committee Clerk Signature			

Minutes: **Senator John T. Traynor, Chairman**, called the meeting to order. Roll call was taken and not all committee members present. Sen. Traynor requested meeting starts with committee work on the bill:

The original hearing on this bill was heard in a joint session, January 22, 2003.

Attachment #1 are the notes to the joint session.

Sandy Tabor - Deputy to the Attorney General Re-introduced the bill (tape 3, side 1, meter 4.4)

Handed out Amendment that was put on by the house and reminded of the emergency clause to the bill - Attachment #2

Senator Thomas L. Trenbeath discussed the offence in regards to drugs, would be a misdemeanor, the fact that a child or vulnerable adult was present would be a felony? Yes. What does expose mean? discussion (meter 5.1) If you do not have a definition it is only a leverage word.

Discussed an exception amendment (meter 7.0).

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Operator's Signature

10/3/03
Date

Page 2
Senate Judiciary Committee
Bill/Resolution Number HB 1351
Hearing Date 03/04/03

Motion Made to DO PASS Amendment to Engrossed HB 1351 Senator Thomas L.

Trenbeath and seconded by Senator Stanley W. Lyson, Vice Chairman

Roll Call Vote: 5 Yes. 0 No. 1 Absent

Motion Passed

Motion Made to DO PASS Engrossed HB 1351 as Amended by Senator Thomas L.

Trenbeath and seconded by Sen. Dever

Roll Call Vote: 5 Yes. 0 No. 1 Absent

Motion Passed

Floor Assignment: Senator Carolyn Nelson

Senator John T. Traynor, Chairman closed the hearing

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Dorinda Halliwell
Operator's Signature

10/3/03
Date

38291.0201
Title.0300

Prepared by the Legislative Council staff for
Senator Trenbeath
March 5, 2003

JB
3-6-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1351

Page 1, line 16, after "19-03.1-01" insert ", except the term does not include less than one-half ounce of marijuana"

Renumber accordingly

Page No. 1

38291.0201

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Dennis Halliwell
Operator's Signature

10/3/03
Date

Date:

1

135

JUDICIAL

**Legislative Council Amendment Number**

Action Taken

Motion Made By

Seconded By

[illegible]**Total (Yes)**

No

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

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Date _____

Roll Call Vote #: 3/6 Date: 3/

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1351

Senate JUDICIAL Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amund

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	✓		Sen. Dennis Bercier	✓	✓
Sen. Stanley Lyson - Vice Chair	✓		Sen. Carolyn Nelson	✓	
Sen. Dick Dever (2)	✓				
Sen. Thomas L. Trenbeath (1)	✓				

Total (Yes) _____ No _____

Absent _____

Floor Assignment Nelson

If the vote is on an amendment, briefly indicate intent:

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Donna Halliwell 10/3/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
March 7, 2003 11:27 a.m.

Module No: SR-41-4212
Carrier: Nelson
Insert LC: 38291.0201 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1351, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1351 was placed on the Sixth order on the calendar.

Page 1, line 16, after "19-03.1-01" Insert ", except the term does not include less than one-half ounce of marijuana"

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

SR-41-4212

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10/3/03
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2003 TESTIMONY

HB 1351

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10/3/03
Date

HOUSE BILL 1351 TESTIMONY
JOINT SENATE AND HOUSE JUDICIARY COMMITTEES
JANUARY 22nd, 2003
PIONEER ROOM

By Jonathan Byers, Assistant Attorney General

Chairmen of the Joint Committees and Members:

My name is Jonathan Byers and I appear on behalf of the Attorney General. I wish to testify in favor of House Bill 1351.

This is the bill that the Attorney General indicated was patterned after a Utah statute that has been successful in that state. You saw the BCI agent dressed in all of his gear to protect against the harmful effects of a few minutes exposure to some of the toxic substances use in Meth manufacture. As you sit here today, there are North Dakota children living in those same harmful conditions, not for minutes, but for days, months, and even years.

House Bill 1351 makes it a class C felony offense to knowingly or intentionally cause or permit a child or vulnerable adult to be exposed to a controlled substance, chemical substance, or paraphernalia. If the child or vulnerable adult actually suffers injury, the offense becomes a class B felony. If the exposure results in the death of the child or vulnerable adult, the offense becomes a class A felony.

The Attorney General asks for a do pass. I would be happy to answer any questions.

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Jonathan Byers
Operator's Signature

10/3/03
Date

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



MARK L. SHURTLEFF
ATTORNEY GENERAL

RAYMOND A. HINTZE
Chief Deputy

KIRK TORGENSEN
Chief Deputy

January 21, 2003

Wayne Stenehjem
State of North Dakota
Facsimile (701)328-2226

Re: *Child and Elder Adult Endangerment Legislation*

To Whom it May Concern:

I am Unit Chief of the State of Utah Attorney General's Office Methamphetamine Prosecution Unit, and as such am charged with prosecuting manufacturers of methamphetamine and all related criminal activities. Please allow me to give you my impressions about the legislation being offered for your consideration for adoption into law.

In past years, Utah had one of the highest per capita rates of methamphetamine labs in the Nation. One of the most tragic incidents of that dubious distinction was the realization of the grievous harm that was being perpetrated against children and the elderly simply because their care givers cared *only* for the drug. To put it squarely, the State can not expect persons involved in this type of activity to take care of their familial responsibilities. It is incumbent upon the State then to emphasize to those who would neglect and harm their vulnerable dependants and others by bringing these dangerous substances near that it not acceptable and will not be tolerated.

Undoubtably, you will hear horror stories of infants testing positive for drugs in their blood, urine and hair, and elder adults being exposed to toxic chemical substances by those who would exploit them for a "place to cook," or do drugs.

As a career prosecutor dedicated these last few years to this particular "war against drugs," I can attest that this particular act is an effective and fair mechanism to address this unacceptable, hazardous, and unjustifiable conduct. It is drafted to address the particular ill with appropriate increases in penalty for bodily injury or death.

In sum, I encourage you to adopt this legislation to assist in fighting the most tragic of battles against drugs. If it is true that a society's laws reflect its social values, adoption of this act will reflect that North Dakota values the health and safety of its most vulnerable citizens.

DEA METRO NARCOTICS TASK FORCE • 348 EAST SOUTH TEMPLE • SALT LAKE CITY, UTAH 84111
TEL: (801) 524-4155 • FAX: (801) 524-5803

RECEIVED TIME JAN.21. 5:57PM

PRINT TIME JAN.21. 5:58PM

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Donna Hall Smith
Operator's Signature

10/3/03
Date

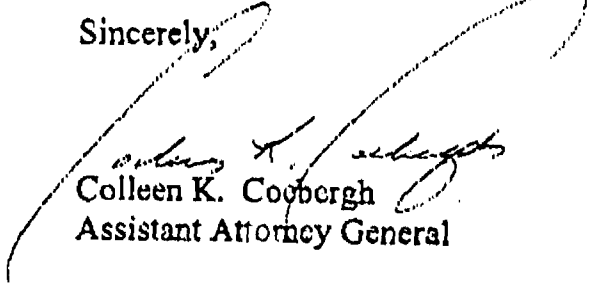
01/21/03 TUE 16:57 FAX

002

Page Two

Good luck in your efforts in protecting the children and elder adults of your State.

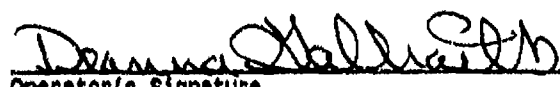
Sincerely,


Colleen K. Coebergh
Assistant Attorney General

RECEIVED TIME JAN.21. 5:57PM

PRINT TIME JAN.21. 5:58PM

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10/3/03
Date

Proposed Amendments to House Bill 1351

January 28, 2003

Presented by the Office of Attorney General

Page 1, line 2, after ":", remove "and"

Page 1, line 3, after "penalty" insert "; to provide an effective date; and to declare an emergency"

Page 2, after line 14, insert:

SECTION 2. EFFECTIVE DATE. This Act becomes effective immediately upon its filing with the secretary of state.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

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10/3/03
Date

ENGROSSED HB 1351
Criminal Penalties for Endangering Children or Vulnerable Adults

Modeled after a Utah statute, this bill creates a new section to the controlled substances chapter, specifically establishing felony penalties for exposing children or vulnerable adults to controlled substances, chemical substances or drug paraphernalia.

Section 1 provides definitions to several of the key components of the bill.

Section 2 makes it a class C felony for a person to knowingly or intentionally cause or permit a child or vulnerable adult to be exposed to, ingest or inhale, or to have contact with a controlled substance, chemical substance or drug paraphernalia.

Section 3 was amended by the House to remove some redundant language regarding bodily injury. The section makes it a class B felony if the child or vulnerable adult actually suffers bodily injury. If the child or vulnerable adult die as a result of the contact, it is a class A felony.

Section 4 creates an affirmative defense to a violation of the section if the controlled substance was provided by lawful prescription and was properly administered.

At the Attorney General's request the House placed the emergency clause on the bill.

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10/3/03
Date

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1351

Page 1, line 16, after "19-03.1-01" insert:

" , except for less than one-half ounce of marijuana"

Submitted By Sand

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