



# State Child Endangerment<sup>1</sup> Enacted Bills Summary

## September 2007

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<sup>1</sup> This update does not contain legislation addressing the child endangerment issue as it pertains to: (a) pregnant and addicted mothers/prenatal exposure to alcohol and/or controlled substances, (b) manufacturing controlled substances in or near “drug-free zones” such as places of worship, playgrounds, schools, day care facilities, etc., (c) driving under the influence of alcohol or controlled substances with a child present in a vehicle, (d) failing to place a child in a child safety seat/failing to employ the use of a seat belt or (e) providing alcohol or tobacco products to minors. Although the National Alliance for Model State Drug Laws (NAMSDL) recognizes that such acts endanger children, we consider the aforementioned offenses as separate research issues outside of the customary purview of child endangerment laws enacted to address the urgency fueled by the existence of clandestine laboratories, especially those used to create methamphetamine.

© 2007 Research is current as of September 20<sup>th</sup>, 2007. In order to ensure that the information contained herein is as current as possible, research is conducted using both nationwide legal database software and individual state legislative websites. Please contact Sarah Kelsey at (434) 973-7800 or [sarahkelsey@natlalliance.org](mailto:sarahkelsey@natlalliance.org) with any additional updates or information that may be relevant to this document. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 1414 Prince Street, Suite 312, Alexandria, VA 22314. (703) 836-6100.

## ARKANSAS

### **H.B. 1004**

**Status:** Enacted

**H.B. 1004** enhances penalties for the manufacture of methamphetamine in the presence of certain persons. Current law provides penalty enhancements if methamphetamine is manufactured or drug paraphernalia is possessed with the intent to manufacture methamphetamine in the presence of minors only. This bill increases the penalties for the aforementioned crimes if they were committed not only in the presence of a minor but also an elderly or incompetent person. **H.B. 1004** defines the term “elderly person” to mean, “any person seventy (70) years of age or older” and the term “incompetent person” to mean, “any person who is incapable of consent because he or she is physically helpless, mentally defective, or mentally incapacitated.”

## ILLINOIS

### **H.B. 1557**

**Status:** Enacted

**H.B. 1557** amends the Unified Code of Corrections by providing that a prisoner serving a sentence for certain drug-related crimes (including but not limited to) delivery of a controlled substance, possession of a controlled substance with intent to manufacture, participation in methamphetamine manufacturing, methamphetamine-related child endangerment, methamphetamine delivery, possession of methamphetamine with intent to deliver, methamphetamine trafficking, methamphetamine conspiracy or drug induced homicide, shall receive no more than 7.5 days good conduct credit for each month of his or her sentence of imprisonment.

## INDIANA

### **H.B. 1084**

**Status:** Enacted

**H.B. 1084** makes technical corrections to various sections of the Indiana Code. Included among the sections to be amended is IC 5-2-15-4. Current law under this Section provides that, “a law enforcement agency that discovers a child less than fourteen (14) years of age at a methamphetamine laboratory site used for the illegal manufacture of a controlled Substance (as defined in IC 35-48-1-9) shall notify the Department of Child Services.” Per the amendment the section reads, “a law enforcement agency that discovers a child less than eighteen (18) years of age at a site used for the illegal manufacture of a controlled substance shall notify the Department of Child Services.”

## MONTANA

### **S.B. 85**

**Status:** Enacted

Under **S.B. 85** the crime of endangering the welfare of children per Section 45-5-622 of the Montana Code Annotated is revised to include methamphetamine-related child endangerment. The legislation provides that a person, whether or not the person is supervising the welfare of a child less than eighteen (18) years of age, commits the offense of endangering the welfare of children if the person, in the residence of a child, in a building, structure, conveyance, or outdoor location where a child might reasonably be expected to be present, in a room offered to the public for overnight accommodation, or in any multiple-unit residential building, knowingly: (a) produces or manufactures methamphetamine or attempts to produce or manufacture methamphetamine; (b) possesses any material, compound, mixture, or preparation that contains any combination of the items listed in Section 45-9-107 with intent to manufacture methamphetamine; or (c) causes or permits a child to inhale, be exposed to, have contact with, or ingest methamphetamine or be exposed to or have contact with methamphetamine paraphernalia. A person convicted of the aforementioned is guilty of a felony and shall be imprisoned in the state prison for a term not to exceed five (5) years and may be fined an amount not to exceed ten thousand dollars (\$10,000.00), or both. If a child suffers serious bodily injury, the offender shall be fined an amount not to exceed twenty-five thousand dollars (\$25,000.00) or be imprisoned for a term not to exceed ten (10) years, or both. Prosecution or conviction does not bar prosecution or conviction for any other crime committed by the offender as part of the same conduct.

## NORTH DAKOTA

### **H.B. 1092**

**Status:** Enacted

**H.B. 1092** enacts amendments to multiple sections in North Dakota's Century Code pertaining to juveniles and proceedings involving juveniles. The measure amends several definitions in the Uniform Juvenile Court Act including "aggravated circumstances." Now included as aggravating circumstances are 1) circumstances in which a parent subjects a child to prenatal exposure to chronic or severe use of alcohol or any controlled substances in a manner not lawfully prescribed by a practitioner and 2) circumstances in which a parent allows a child to be present in an environment subjecting the child to a controlled substance, chemical substance, or drug paraphernalia. Per North Dakota State law, a person's parental rights may be terminated by court order if a parent subjects his/her child to aggravated circumstances.

## TEXAS

### **H.B. 946**

**Status:** Enacted

**H.B. 946** enhances the penalties for manufacturing a controlled substance if it shown during the punishment phase of a trial that the manufacture occurred while a child under the age of 18 was present on the premises where the offense was committed. The specified punishment is enhanced by one degree; the minimum term of imprisonment is increased to 15 years and the maximum fine is increased to \$150,000 (for amounts from 200 to 400 grams); and the minimum term of imprisonment is increased to 20 years and the maximum fine is increased to \$300,000 (for amounts of 400 grams or more).

**H.B. 946** additionally expands what types of conduct constitute placing a child in imminent danger of death, bodily injury or physical impairment. Under previous law, such conduct included manufacture of methamphetamine in the presence of a child; Texas law now includes 1) the person's possession of methamphetamine or introducing methamphetamine into the body in the presence of a child 2) the person's conduct related to the proximity or accessibility of methamphetamine to the child and a specimen analysis of the child's blood, urine, etc... indicates the presence of methamphetamine in the child's body.

## UTAH

### **H.B. 231**

**Status:** Enacted

Among other things, **H.B. 231** modifies the Utah Controlled Substances Act regarding violations of controlled substance laws in the presence of children. To that end, the bill amends the current crime of committing drug offenses in the “immediate presence” of persons younger than eighteen (18) by removing the word “immediate.”