

HOUSE BILL No. 2333

By Committee on Federal and State Affairs

2-12

9 AN ACT concerning crimes and punishment; creating the crime of use
10 of a controlled substance endangering a child.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Except as authorized by the uniform controlled sub-
14 stances act, it shall be unlawful:

15 (1) For any person to knowingly introduce a controlled substance into
16 the body of a female whom that person knows to be pregnant;

17 (2) for any female who knows she is pregnant to knowingly use, con-
18 sume, ingest, inhale or otherwise introduce a controlled substance into
19 her body; and

20 (3) for any person to knowingly permit or intentionally cause a child
21 to use, consume, ingest, inhale or otherwise introduce a controlled sub-
22 stance into the child's body.

23 (b) For purposes of subsection (a)(2), it is a permissible inference
24 that a pregnant female has consumed a controlled substance if during the
25 pregnancy the female tests positive for the presence of a controlled sub-
26 stance, or if the female or her newborn child tests positive for the pres-
27 ence of a controlled substance upon the birth of the newborn child.

28 (c) For purposes of subsection (a)(2), upon the filing of the charge,
29 the court shall order such person to submit to a drug abuse examination
30 and evaluation in a public or private treatment facility or state institution
31 and, if determined by the head of such facility or institution that such
32 person is a drug abuser or incapacitated by drugs, to submit to treatment
33 for such drug abuse, as a condition of release.

34 (d) The provisions of this section shall not apply when the controlled
35 substance in question is legally used, consumed, inhaled, ingested or oth-
36 erwise introduced into the body of a pregnant female or child pursuant
37 to a valid prescription.

38 (e) As used in this section:

39 (1) "Child" means any individual under the age of 18 years and in-
40 cludes any unborn child, as that term is used in K.S.A. 21-3452, and
41 amendments thereto.

42 (2) "Controlled substance" means any drug, substance or immediate
43 precursor included in the schedules designated in K.S.A. 65-4105 and 65-

1 4107, and amendments thereto.

2 (f) Use of a controlled substance endangering a child is an unclassi-
3 fied misdemeanor and punishable by requiring the defendant to partici-
4 pate in a licensed or certified drug treatment program.

5 (g) A physician or other licensed health care professional, or any per-
6 son employed or otherwise working with such physician or other licensed
7 health care professional, shall have no duty to report that a patient under
8 such physician's or other licensed health care professional's care may have
9 violated the provisions of subsection (a)(2), regardless of whether such a
10 report may otherwise be required pursuant to any other law. A physician
11 or other licensed health care professional who reports a person for vio-
12 lating the provisions of this section shall be immune from liability for
13 making such report unless the report was not made in good faith.

14 (h) This section shall be part of and supplemental to the Kansas crim-
15 inal code.

16 Sec. 2. This act shall take effect and be in force from and after its
17 publication in the statute book.