

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Miller, et al.

H.B. No. 946

A BILL TO BE ENTITLED

AN ACT

relating to conduct that constitutes the offense of endangering a child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 22.041(c-1), Penal Code, is amended to read as follows:

(c-1) For purposes of Subsection (c), it is presumed that a person engaged in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment if:

(1) the person manufactured, possessed, or in any way introduced into the body of any person the controlled substance methamphetamine in the presence of the child; or

(2) the person's conduct related to the proximity or accessibility of the controlled substance methamphetamine to the child and an analysis of a specimen of the child's blood, urine, or other bodily substance indicates the presence of methamphetamine in the child's body.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was

1 committed before that date.

2 SECTION 3. This Act takes effect September 1, 2007.

FLOOR AMENDMENT NO. 1

BY: Roger W. N.

Amend H.B. No. 946 (Senate Committee Printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 22.041(c-1), Penal Code, at the end of Subdivision (1) (page 1, line 18), strike "or".

(2) In SECTION 1 of the bill, in amended Section 22.041(c-1), Penal Code, at the end of Subdivision (2) (page 1, line 23), between "child's body" and the period, insert:

" ; or

(3) the person injected, ingested, inhaled, or otherwise introduced a controlled substance listed in Penalty Group 1, Section 481.102, Health and Safety Code, into the human body when the person was not in lawful possession of the substance as defined by Section 481.002(24) of that code".

**ADOPTED**

MAY 23 2007

*Lataj Spaw*  
Secretary of the Senate

**ADOPTED**

BY: Estes

MAY 23 2007

Lataj Spaw  
Secretary of the Senate

1 Amend H.B. No. 946 by adding the following appropriately  
2 numbered SECTION and renumbering subsequent SECTIONS  
3 accordingly:

4 SECTION \_\_. Subchapter D, Chapter 481, Health and Safety  
5 Code, is amended by adding Section 481.1122 to read as follows:

6 Sec. 481.1122. MANUFACTURE OF SUBSTANCE IN PENALTY GROUP  
7 1: PRESENCE OF CHILD. If it is shown at the punishment phase  
8 of a trial for the manufacture of a controlled substance listed  
9 in Penalty Group 1 that when the offense was committed a child  
10 younger than 18 years of age was present on the premises where  
11 the offense was committed:

12 (1) the punishments specified by Sections 481.112(b)  
13 and (c) are increased by one degree;

14 (2) the minimum term of imprisonment specified by  
15 Section 481.112(e) is increased to 15 years and the maximum fine  
16 specified by that section is increased to \$150,000; and

17 (3) the minimum term of imprisonment specified by  
18 Section 481.112(f) is increased to 20 years and the maximum fine  
19 specified by that section is increased to \$300,000.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 19, 2007**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB946** by Miller (Relating to conduct that constitutes the offense of endangering a child.),  
**As Engrossed**

The probable impact of implementing the provision of this bill cannot be determined due to the unavailability of reliable data or information related to the circumstances involved in the possession or use of methamphetamine in the presence of a child or the proximity or accessibility of methamphetamine to a child.

The bill would amend the Penal Code to include possession or introduction of methamphetamine into the body in the presence of a child and conduct related to the proximity or accessibility of methamphetamine to a child with analysis indicating presence of methamphetamine in the child's body to conduct placing a child in imminent danger of death, bodily injury, or physical or mental impairment.

The bill would take effect on September 1, 2007 and apply to offenses committed on or after that date.

Broadening the definition of the types of behavior punishable is expected to result in increased demands upon the correctional resources of counties or of the State due to an increase in offenses. In fiscal year 2006 there were 191 offenders admitted to state jail for abandoning or endangering a child by criminal negligence, and in fiscal year 2005 there were 419 offenders placed on state jail felony community supervision for abandoning or endangering a child by criminal negligence. It is expected that individuals who would be affected under the bill are currently being sentenced for other, possibly misdemeanor, offenses.

A check of Texas Department of Criminal Justice records, Department of Public Safety records, Office of Court Administration records, and Jail Standards Commission records did not reveal any information that would help in an accurate assumption regarding possession or use of methamphetamine in the presence of a child or the proximity or accessibility of methamphetamine to a child; therefore, the probable impact of implementing the bill cannot be determined.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, ES, GG, TM

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 1, 2007**

**TO:** Honorable Joe Driver, Chair, House Committee on Law Enforcement

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB946** by Miller (Relating to conduct that constitutes the offense of endangering a child.),  
**As Introduced**

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**Source Agencies:** 696 Department of Criminal Justice

**LBB Staff:** JOB, ES, GG, TM

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

**May 19, 2007**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB946** by Miller (Relating to conduct that constitutes the offense of endangering a child.),  
**As Engrossed**

The bill would amend the Penal Code relating to the offense of abandoning or endangering a child to include: 1) possession or introduction of methamphetamine into the body in the presence of a child; and 2) conduct related to the proximity or accessibility of methamphetamine to a child with analysis indicating presence of methamphetamine in the child's body to conduct placing a child in imminent danger of death, bodily injury, or physical or mental impairment. The offense of abandoning or endangering a child is punishable as a state jail felony, a felony of the third degree, or a felony of the second degree depending on the conditions associated with the abandonment.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed \$10,000.

A third degree felony is punishable by imprisonment in the institutional division for any term of not more than ten years or less than two years, or, in addition to imprisonment, a fine not to exceed \$10,000.

A second degree felony is punishable by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

Broadening the definition of the types of behavior punishable is expected to result in increased demands upon the correctional resources of counties or of the State due to an increase in offenses. In fiscal year 2006 there were 191 offenders admitted to state jail for abandoning or endangering a child by criminal negligence, and in fiscal year 2005 there were 419 offenders placed on state jail felony community supervision for abandoning or endangering a child by criminal negligence. It is expected that individuals who would be affected under the provision of this bill are currently being sentenced for other, possibly misdemeanor, offenses. The probable impact of implementing the provision of this bill cannot be determined due to the unavailability of reliable data or information related to the circumstances involved in the possession or use of methamphetamine in the presence of a child or the proximity or accessibility of methamphetamine to a child.

**Source Agencies:**

**LBB Staff: JOB, GG, TM**

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

**March 30, 2007**

**TO:** Honorable Joe Driver, Chair, House Committee on Law Enforcement

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB946** by Miller (Relating to conduct that constitutes the offense of endangering a child.),  
**As Introduced**

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