

## Child Protection Committee

### Creating a New Crime to Penalize A Caregiver's Failure to Prevent Harm to a Child

**Summary:** The Attorney General has suggested creating a new crime that would penalize a parent or caregiver who fails to protect a child from harm.

**Proposed Law:** The Attorney General's proposed amendment to 13 V.S.A. § 1304 is below.

#### 13 V.S.A. § 1304. CRUELTY TO CHILDREN UNDER 10 BY ONE OVER 16

(a) ~~A person over the age of 16 year, having the custody, charge, or care of a child under 10 years of age who wilfully assaults, ill treats, neglects or abandons or exposes such child, or causes or procures such child to be assaulted, ill treated, neglected, abandoned or exposed, in a manner to cause such child unnecessary suffering, or to endanger his or her health, shall be imprisoned not more than two years or fined not more than \$500.00, or both~~ 16 commits the crime of cruelty to children under 16 if the person:

(1) causes or allows the child to suffer bodily injury or serious bodily injury as defined in section 1021 of this title;

(2) subjects the child to, or allows the child to be subjected to, sexual exploitation in violation of chapter 64 of this title or sexual assault in violation of chapter 72 of this title;

(3) permits the child to be, or fails to exercise reasonable diligence in preventing the child from being, in a location used to manufacture methamphetamine or another controlled substance, a location used for the illegal sale of controlled substances, or a location used to facilitate prostitution; or

(4) fails to exercise a reasonable degree of care and supervision over the child, which results in unnecessary suffering or endangerment to the child's physical and mental health.

(b) In a prosecution for a violation of this section, it shall not be necessary for the state to prove that the defendant acted intentionally, knowingly, willfully, recklessly, or negligently.

(c) A person who violates this section shall be imprisoned not more than five years or fined not more than \$5,000.00, or both. If serious bodily injury or death of a child results from a violation of this section, the person shall be imprisoned not more than ten years or fined not more than \$10,000.00 or both. If the serious bodily injury or death of more than one child results from a violation of this section, the person may be convicted of a separate violation for each child.

(d) The provisions of this section do not limit or restrict prosecutions for any other offense arising out of the same incident.