SENATE PUBLIC HEALTH, WELFARE & SAFETY
HB0068.02
EXHIBIT NO. 3
DATE: 3-23-05
BILL NO. HB68

HOUSE BILL NO. 68

INTRODUCED BY ANDERSEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE ADMINISTRATION OF ANY MEDICINE OR PRESCRIPTION DRUG TO A CHILD IN A LICENSED OR UNLICENSED DAY-CARE FACILITY WITHOUT PROPER AUTHORIZATION FROM THE CHILD'S PARENT OR GUARDIAN; PROVIDING AN EXCEPTION; PROVIDING DEFINITIONS; AND PROVIDING A CRIMINAL PENALTY."

WHEREAS, too often the victim is forgotten by the judicial system and society; and

WHEREAS, the motivation for this bill is the tragic death of Dane Jordan Heggem; and

WHEREAS, this bill will be known as "Dane's Law" to remind the judicial system and society of the victims of the crime.

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

NEW SECTION. **Section 1. Prohibition against administering medicine without authorization -- provision for emergency -- definitions -- penalty.** (1) An employee, owner, household member, volunteer, or operator of a day-care facility, as defined in 52-2-703, regardless of whether the facility is licensed or registered, may not purposely or knowingly administer any medicine ~~or prescription drug~~, as defined in 37-7-101, to a child attending the day-care facility without written authorization. Written authorization must include the child's name, date or dates for which the authorization is applicable, dosage instructions, and signature of the child's parent or guardian.

(2) If an emergency medical condition arises and the parent or guardian of the child is unavailable, an employee, owner, or operator of a day-care facility may administer medicine to a child attending the day-care facility without the written authorization of a parent or guardian as provided in subsection (1) if:

(a) a medical practitioner provides a written authorization containing the child's name, date or dates for which the authorization is applicable, dosage instructions, and the medical practitioner's signature; or

(b) a medical practitioner, emergency services provider, or 9-1-1 responder verbally directs the employee, owner, or operator of the day-care facility attending the child to immediately administer a medicine to the child and the child is subsequently transported within a reasonable time by the child's parents, an

owner, operator, or employee of the child-care facility, a health care provider, or an emergency services provider to a health care facility or a medical practitioner for follow-up care.

(3) A medicine administered to a child pursuant to subsection (1) or (2) may not be inappropriately administered.

(4) An employee, owner, or operator of a day-care facility who has administered medicine to a child in accordance with this section may not be prosecuted for bodily injury or severe bodily injury to a child.

~~(3)~~(4) For the purposes of this section:

(a) "bodily injury" has the meaning provided in 45-2-101;

~~(a)~~(b) "emergency medical condition" means circumstances in which a prudent lay person acting reasonably would believe that an emergency medical condition exists; ~~and~~

(c) "emergency services provider" has the meaning provided in 50-16-701;

(d) "health care facility" means a profit or nonprofit, public or private physician's office, hospital, critical access hospital, infirmary, clinic, outpatient center for primary care, outpatient center for surgical services, or medical assistance facility, as any of those terms are defined in 50-5-101.

(e) "inappropriately administered" means to give medicine to a child that is not indicated, as to the medicine's type, dosage, or frequency of use or the container instructions, if any, by the medical symptoms exhibited by the child.

(f) "knowingly" has the meaning provided in 45-2-101;.

~~(b)~~ (g) "medical practitioner" has the meaning provided in 37-2-101;

(h) "9-1-1 responder" means a law enforcement dispatcher or other person answering a 9-1-1 telephone call, a person answering a telephone call made to a poison control center, or an emergency services provider;

.(i) "purposely" has the meaning provided in 45-2-101; and

(j) "serious bodily injury" has the meaning provided in 45-2-101.

(4)~~(a) A person convicted of unlawfully administering a medicine or a prescription drug without authorization shall be imprisoned in the state prison for a term not to exceed 10 years 6 months or be fined an amount not to exceed $50,000 $1,000, or both.~~

~~(B)~~(A) A PERSON CONVICTED OF ~~UNLAWFULLY~~ PURPOSELY OR KNOWINGLY ADMINISTERING MEDICINE ~~OR A PRESCRIPTION DRUG~~ WITHOUT AUTHORIZATION RESULTING IN BODILY INJURY TO A CHILD SHALL BE IMPRISONED IN THE COUTY JAIL FOR A TERM NOT TO EXCEED ~~10 YEARS~~ 6 MONTHS OR BE FINED AN AMOUNT NOT TO EXCEED ~~$50,000~~ $500, OR

BOTH.

~~(b)(c)~~ (b) A person convicted of ~~unlawfully~~ purposely or knowingly administering medicine ~~OR A PRESCRIPTION DRUG~~ without authorization resulting in serious BODILY injury to a child or in the death of a child shall be imprisoned ~~in the state prison~~ for a term not to exceed 20 years or be fined an amount not to exceed $50,000, or both.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 52, chapter 2, part 7, and the provisions of Title 52, chapter 2, part 7, apply to [section 1].

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