

HB 365 S2 Child Abuse and Endangerment Amendments [regarding Cannabis]

I. Best Interests of a Child

This bill addresses a court's determination of what is in the best interests of a child when a parent is using Cannabis starting with line 207 of Sub 2: A parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of a child, if: ... the parent's or guardian's possession or use complies with ... Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the dosing parameters determined by the parent's or guardian's qualified medical provider or through a consultation ...

When a court must determine what is in the best interests of a child, it considers many factors. The people whom I have seen under the influence of cannabis were not able to care for a child. A child has complex needs including physical safety and emotional and mental nurturing. The Utah Medical Cannabis Act does not provide dosing parameters that would ensure that a parent is able to meet the complex needs of a child.

While a parent may use cannabis that does not limit his or her parenting abilities, this language would prevent the court from protecting a child or determining what is in the best interests of a child when it does.

II. Abuse or Neglect

Lines 196-206 address abuse or neglect of a child: A parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of a child under Section 78A-6-105 if: (i) there is no evidence showing that: (A) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or (B) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner; or (ii) there is no evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

Abuse or neglect involves far more than immediate and visible physical harm. For example, if a parent is not mentally, emotionally or physically able to provide for the mental, emotional and physical needs of a child, the child may not show any immediate physical harm that has nothing to do with the inhalation or ingestion of cannabis. Further, if a child is ingesting and inhaling the parent's cannabis, one may not be able to show evidence of immediate harm. The nexus subsection (c)(ii) would be sufficient to allow the parent's use when it is not harmful to a child and to allow the court to protect the child from abuse or neglect.

Please Vote No on this bill and let the courts do their job in protecting our children and considering each case's factors.