

76-5-112.5 Endangerment of a child or vulnerable adult.

(1) As used in this section:

(a)

(i) "Chemical substance" means:

(A) a substance intended to be used as a precursor in the manufacture of a controlled substance;

(B) a substance intended to be used in the manufacture of a controlled substance; or

(C) any fumes or by-product resulting from the manufacture of a controlled substance.

(ii) Intent under this Subsection (1)(a) may be demonstrated by:

(A) the use, quantity, or manner of storage of the substance; or

(B) the proximity of the substance to other precursors or to manufacturing equipment.

(b) "Child" means a human being who is under 18 years of age.

(c) "Controlled substance" is as defined in Section 58-37-2.

(d) "Drug paraphernalia" is as defined in Section 58-37a-3.

(e) "Exposed to" means that the child or vulnerable adult:

(i) is able to access or view an unlawfully possessed:

(A) controlled substance; or

(B) chemical substance;

(ii) has the reasonable capacity to access drug paraphernalia; or

(iii) is able to smell an odor produced during, or as a result of, the manufacture or production of a controlled substance.

(f) "Prescription" is as defined in Section 58-37-2.

(g) "Vulnerable adult" is as defined in Subsection 76-5-111(1).

(2) Unless a greater penalty is otherwise provided by law:

(a) except as provided in Subsection (2)(b) or (c), a person is guilty of a felony of the third degree if the person knowingly or intentionally causes or permits a child or a vulnerable adult to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia;

(b) except as provided in Subsection (2)(c), a person is guilty of a felony of the second degree, if:

(i) the person engages in the conduct described in Subsection (2)(a); and

(ii) as a result of the conduct described in Subsection (2)(a), a child or a vulnerable adult suffers bodily injury, substantial bodily injury, or serious bodily injury; or

(c) a person is guilty of a felony of the first degree, if:

(i) the person engages in the conduct described in Subsection (2)(a); and

(ii) as a result of the conduct described in Subsection (2)(a), a child or a vulnerable adult dies.

(3) It is an affirmative defense to a violation of this section that the controlled substance:

(a) was obtained by lawful prescription; and

(b) is used or possessed by the person to whom it was lawfully prescribed.

(4) The penalties described in this section are separate from, and in addition to, the penalties and enhancements described in Title 58, Occupations and Professions.

Amended by Chapter 320, 2011 General Session