1	PROTECTION FOR CHILDREN AND ELDERLY
2	2000 GENERAL SESSION
3	STATE OF UTAH
4	Sponsor: Pete Suazo
5	AN ACT RELATING TO THE CRIMINAL CODE AND CLANDESTINE DRUG
6	LABORATORIES; CHANGING THE PENALTIES RELATED TO OPERATION OF A
7	CLANDESTINE DRUG LABORATORY THAT MAY PRESENT RISK OF BODILY INJURY
8	TO CHILDREN OR ELDER ADULTS; AND CREATING THE CRIME OF ENDANGERING
9	A CHILD OR ELDER ADULT.
10	This act affects sections of Utah Code Annotated 1953 as follows:
11	AMENDS:
12	58-37d-5, as last amended by Chapter 65, Laws of Utah 1998
13	ENACTS:
14	<b>76-5-112.5</b> , Utah Code Annotated 1953
15	Be it enacted by the Legislature of the state of Utah:
16	Section 1. Section <b>58-37d-5</b> is amended to read:
17	58-37d-5. Prohibited acts First degree felony.
18	(1) A person who violates Subsection 58-37d-4(1)(a), (b), $\S [-\underline{or}] \S$ (e) $\S [+]$ , or (f) $+\S$ is
18a	guilty of a first
19	degree felony if the trier of fact also finds any one of the following conditions occurred in
20	conjunction with that violation:
21	(a) possession of a firearm;
22	(b) use of a booby trap;
23	(c) illegal possession, transportation, or disposal of hazardous or dangerous material or
24	while transporting or causing to be transported materials in furtherance of a clandestine laboratory
25	operation, there was created a substantial risk to human health or safety or a danger to the
26	environment;
27	(d) intended laboratory operation was to take place or did take place within 500 feet of a

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28	residence, place of business, church, or school;
29	[(e) any phase of the clandestine laboratory operation or production or manufacture of a
30	controlled or counterfeit substance involved or was conducted in the presence of a person less than
31	18 years of age;
32	[(f)] (e) clandestine laboratory operation actually produced any amount of a specified
33	controlled substance; or
34	[(g)] (f) intended clandestine laboratory operation was for the production of cocaine base
35	or methamphetamine base.
36	(2) If the trier of fact finds that two or more of the conditions listed in Subsections (1)(a)
37	through [(g)] (f) of this section occurred in conjunction with the violation, at sentencing for the
38	first degree felony:
39	(a) probation shall not be granted;
40	(b) the execution or imposition of sentence shall not be suspended; and
41	(c) the court shall not enter a judgment for a lower category of offense.
42	Section 2. Section <b>76-5-112.5</b> is enacted to read:
43	76-5-112.5. Endangerment of child or elder adult.
44	(1) For purposes of this section:
45	(a) "chemical substance" means a substance used as a precursor in the manufacture of a
46	controlled substance, or any other chemical, as demonstrated by its use, quantity, manner of
47	storage, or proximity to other precursors, or to manufacturing equipment which was intended to
48	be used in the manufacture of controlled substances;
49	(b) "child" means the same as that term is defined in Subsection 76-5-109(1)(a);
50	(c) "controlled substance" means the same as that term is defined in Section 58-37-2;
51	(d) "drug paraphernalia" means the same as that term is defined in Section 58-37a-3; and
52	(e) "elder adult" means the same as that term is defined in Section 76-5-111.
53	(2) Unless a greater penalty is otherwise provided by law, any person who $\hat{h} [\$ RECKLESSLY, \$] \hat{h}$
53a	knowingly \$, \$ or
54	intentionally causes or permits a child or elder adult to be at risk of suffering bodily injury.
55	substantial bodily injury, or serious bodily injury from exposure to, ingestion of, inhalation of, or
56	contact with a controlled substance, chemical substance, or drug paraphernalia as defined in
57	Subsection (1), is guilty of a felony of the third degree.
58	(3) Unless a greater penalty is otherwise provided by law, any person who violates

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Subsection (2), and a child or elder adult actually suffers bodily injury, substantial bodily injury,
or serious bodily injury by exposure to, ingestion of, inhalation of, or contact with a controlled
substance, chemical substance, or drug paraphernalia, is guilty of a felony of the second degree
unless the exposure, ingestion, inhalation, or contact results in the death of the child or elder adult,
in which case the person is guilty of a felony of the first degree.

## Legislative Review Note as of 2-4-00 10:42 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel