

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 **76-5-112.5** 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 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

59 Subsection (2), and a child or elder adult actually suffers bodily injury, substantial bodily injury,
60 or serious bodily injury by exposure to, ingestion of, inhalation of, or contact with a controlled
61 substance, chemical substance, or drug paraphernalia, is guilty of a felony of the second degree
62 unless the exposure, ingestion, inhalation, or contact results in the death of the child or elder adult,
63 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