

Effective 5/3/2023

Superseded 5/6/2026

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

- (1)
 - (a) As used in this section:
 - (i)
 - (A) "Chemical substance" means:
 - (I) a substance intended to be used as a precursor in the manufacture of a controlled substance;
 - (II) a substance intended to be used in the manufacture of a controlled substance; or
 - (III) any fumes or by-product resulting from the manufacture of a controlled substance.
 - (B) Intent under this Subsection (1)(a)(i) may be demonstrated by:
 - (I) the use, quantity, or manner of storage of the substance; or
 - (II) the proximity of the substance to other precursors or to manufacturing equipment.
 - (ii) "Child" means an individual who is under 18 years old.
 - (iii) "Controlled substance" means the same as that term is defined in Section 58-37-2.
 - (iv) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.
 - (v) "Exposed to" means that the child or vulnerable adult:
 - (A) is able to access an unlawfully possessed:
 - (I) controlled substance; or
 - (II) chemical substance;
 - (B) has the reasonable capacity to access drug paraphernalia; or
 - (C) is able to smell an odor produced during, or as a result of, the manufacture or production of a controlled substance.
 - (vi) "Prescription" means the same as that term is defined in Section 58-37-2.
 - (vii) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits endangerment of a child or vulnerable adult if the actor 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.
- (3)
 - (a) A violation of Subsection (2) is a third degree felony.
 - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if:
 - (i) the actor engages in the conduct described in Subsection (2); and
 - (ii) as a result of the conduct described in Subsection (2), the child or the vulnerable adult suffers bodily injury, substantial bodily injury, or serious bodily injury.
 - (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a first degree felony if:
 - (i) the actor engages in the conduct described in Subsection (2); and
 - (ii) as a result of the conduct described in Subsection (2), the child or the vulnerable adult dies.
- (4)
 - (a) Notwithstanding Subsection (3), a child may not be subjected to delinquency proceedings for a violation of Subsection (2) unless:
 - (i) the child is 15 years old or older; and
 - (ii) the other child who is exposed to or inhales, ingests, or has contact with the controlled substance, chemical substance, or drug paraphernalia, is under 12 years old.
 - (b) It is an affirmative defense to a violation of this section that the controlled substance:

- (i) was obtained by lawful prescription or in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and
 - (ii) is used or possessed by the individual to whom the controlled substance was lawfully prescribed or recommended to under Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.
- (5) The penalties described in this section are separate from, and in addition to, the penalties and enhancements described in Title 58, Occupations and Professions.
- (6) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law, this section does not prohibit prosecution and sentencing for the more serious offense.