

1                                   **ENDANGERMENT OF CHILD OR ELDER**  
2                                   **PERSON WITH CONTROLLED SUBSTANCE OR**  
3                                   **PRECURSOR**

4                                   2002 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Sponsor: Trisha S. Beck**

7   **This act modifies the Criminal Code to clarify the offense of exposing children and the**  
8   **elderly to controlled substances or chemical substances, and providing an affirmative**  
9   **defense for administering a controlled substance in accordance with the prescription.**

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12           **76-5-112.5**, as enacted by Chapter 187, Laws of Utah 2000

13 *Be it enacted by the Legislature of the state of Utah:*

14           Section 1. Section **76-5-112.5** is amended to read:

15           **76-5-112.5. Endangerment of child or elder adult.**

16           (1) For purposes of this section:

17           (a) "Chemical substance" means a substance **§ INTENDED TO BE §** used as a precursor in  
17a the manufacture of a  
18 controlled substance, or any other chemical **§ [,-as] INTENDED TO BE USED IN THE MANUFACTURE**  
18a **OF A CONTROLLED SUBSTANCE. INTENT UNDER THIS SUBSECTION MAY BE §** demonstrated by  
18b **§ [its] THE SUBSTANCE'S §** use, quantity, manner of  
19 storage **§ [;] §** or proximity to other precursors, or to manufacturing equipment **§ [which was intended to**  
20 **be used in the manufacture of controlled substances[;]] § .**

21           (b) "Child" means the same as that term is defined in Subsection 76-5-109(1)(a)[;].

22           (c) "Controlled substance" means the same as that term is defined in Section 58-37-2[;].

23           (d) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3[;  
24 and].

25           (e) "Elder adult" means the same as that term is defined in Section 76-5-111.

26           (2) Unless a greater penalty is otherwise provided by law, any person who knowingly or  
27 intentionally causes or permits a child or elder adult to be [at risk of suffering bodily injury,





28 ~~substantial bodily injury, or serious bodily injury from exposure to, ingestion of, inhalation of, or]~~  
29 ~~exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance,~~  
30 ~~or drug paraphernalia as defined in Subsection (1), is guilty of a felony of the third degree.~~

31 (3) Unless a greater penalty is otherwise provided by law, any person who violates  
32 Subsection (2), and a child or elder adult actually suffers bodily injury, substantial bodily injury,  
33 or serious bodily injury by exposure to, ingestion of, inhalation of, or contact with a controlled  
34 substance, chemical substance, or drug paraphernalia, is guilty of a felony of the second degree  
35 unless the exposure, ingestion, inhalation, or contact results in the death of the child or elder adult,  
36 in which case the person is guilty of a felony of the first degree.

37 (4) (a) It is an affirmative defense to a violation of this section that the controlled  
38 substance was provided by lawful prescription for the child or elder adult, and that it was  
39 administered to the child or elder adult in accordance with the prescription instructions provided  
40 with the controlled substance.

41 (b) As used in this Subsection (4), "prescription" has the same definition as in Section  
42 58-37-2.

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**Legislative Review Note**  
**as of 12-12-01 1:26 PM**

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

**Office of Legislative Research and General Counsel**