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# A BILL FOR AN ACT

RELATING TO DRUGS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 329-65, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3           "(d) Any manufacturer, wholesaler, retailer, or other  
4 person who possesses any of the substances listed in section  
5 329-61 with the intent to unlawfully manufacture any controlled  
6 substance shall be fined not more than \$100,000, [~~or~~] imprisoned  
7 not more than ten years, or both[ ~~or~~]; provided that:

8           (1) Any person convicted of possessing any substance  
9           regulated under section 329-61 with the intent to  
10           unlawfully manufacture a controlled substance knowing  
11           that a child under the age of sixteen is present in  
12           the structure where the offense occurs shall be  
13           sentenced pursuant to section 712-1240.5(1); and

14           (2) Any person convicted of possessing any substance  
15           regulated under section 329-61 with the intent to  
16           unlawfully manufacture a controlled substance knowing  
17           that a child under the age of eighteen is present in  
18           the structure where the offense occurs and causes the



1 child to suffer serious or substantial bodily injury  
2 as defined in section 707-700 shall be sentenced  
3 pursuant to section 712-1240.5(2)."

4 SECTION 2. Section 712-1240.5, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[+]§712-1240.5[+] **Manufacturing a controlled substance or**  
7 **possessing a precursor chemical with a child present. (1)**

8 Except as provided in subsection (2), any person convicted of  
9 manufacturing a controlled substance in violation of this  
10 chapter[-] or convicted of possessing any substance regulated  
11 under section 329-61 with the intent to unlawfully manufacture a  
12 controlled substance, and who commits the offense knowing that a  
13 child under the age of sixteen is present in the structure where  
14 the offense occurs, shall be sentenced to a term of two years  
15 imprisonment to run consecutively [~~to~~]:

16 (a) To the maximum indeterminate term of imprisonment  
17 for the conviction of any offense involving the  
18 manufacturing of a controlled substance[-]; or

19 (b) To the maximum indeterminate term of imprisonment  
20 imposed pursuant to section 329-65(d)(1) for the  
21 possession of a regulated substance with the intent to  
22 unlawfully manufacture a controlled substance.



1           (2) Any person convicted of manufacturing a controlled  
2 substance in violation of this chapter[~~7~~] or convicted of  
3 possessing any substance regulated under section 329-61 with the  
4 intent to unlawfully manufacture a controlled substance, and who  
5 commits the offense knowing that a child under the age of  
6 eighteen is present in the structure where the offense occurs  
7 and causes the child to suffer serious or substantial bodily  
8 injury as defined in section 707-700, shall be sentenced to a  
9 term of five years imprisonment to run consecutively [~~to~~]:

10           (a) To the maximum indeterminate term of imprisonment for  
11           the conviction of any offense involving the  
12           manufacturing of a controlled substance[~~7~~];

13           (b) To the maximum indeterminate term of imprisonment  
14           imposed pursuant to section 329-65(d)(2) for the  
15           possession of a regulated substance with the intent to  
16           unlawfully manufacture a controlled substance.

17           (3) As used in this section, "structure" means any house,  
18 apartment building, shop, warehouse, building, vessel, cargo  
19 container, motor vehicle, tent, recreational vehicle, trailer,  
20 or other enclosed space capable of holding a child and equipment  
21 for the manufacture of a controlled substance."



1 SECTION 3. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun, before its effective date.

4 SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Controlled Substance; Child

**Description:**

Increases the penalties for possession of a controlled substance with knowledge that a child is present in the structure where the offense occurs. Effective upon approval. (SD1)

