
A BILL FOR AN ACT

RELATING TO SENTENCING.

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

1 SECTION 1. Section 709-903.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§709-903.5 Endangering the welfare of a minor in the**
4 **first degree.** (1) Except as provided in subsection (2), a
5 person commits the offense of endangering the welfare of a minor
6 in the first degree if, having care or custody of a minor, the
7 person:

8 (a) Intentionally or knowingly allows another person to
9 inflict serious or substantial bodily injury on the
10 minor; or

11 (b) Intentionally or knowingly causes or permits the minor
12 to inject, ingest, inhale, or otherwise introduce into
13 the minor's body any controlled substance listed in
14 sections 329-14, 329-16, 329-18, and 329-20 that has
15 not been prescribed by a physician for the minor,
16 except as permitted under section 329-122.

17 (2) It shall be a defense to prosecution under [~~sections~~
18 ~~709-903.5(1)~~] subsection (1)(a) and section 709-904(1) if, at



1 the time the person allowed another to inflict serious or
2 substantial bodily injury on a minor, the person reasonably
3 believed the person would incur serious or substantial bodily
4 injury in acting to prevent the infliction of serious or
5 substantial bodily injury on the minor.

6 (3) In sentencing a defendant for a conviction under
7 subsection (1)(b), in situations where the defendant and a minor
8 in the care or custody of the defendant resided on the same
9 premises as another party who was engaged in an activity that
10 exposed the minor to controlled substances described in
11 subsection (1)(b), the court may consider extenuating
12 circumstances, including but not limited to:

13 (a) Whether the defendant is a victim of abuse of a family
14 or household member under section 709-906; or
15 (b) Whether economic circumstance prevented the defendant
16 and minor from residing elsewhere.

17 The court shall not consider these extenuating circumstances if
18 the defendant was also involved in the activity that exposed the
19 minor to controlled substances described in subsection (1)(b).

20 ~~[-3-]~~ (4) Endangering the welfare of a minor in the first
21 degree is a class C felony."

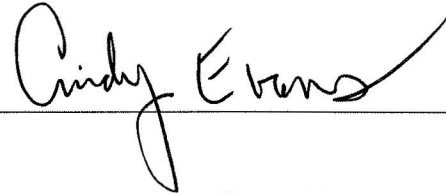


1 SECTION 2. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



JAN 22 2009



Report Title:

Child Endangerment; Sentencing

Description:

Allows the court to consider extenuating circumstance when sentencing a defendant for endangering the welfare of a minor in the first degree in situations where the defendant and minor live on the same premises as another party who is involved in drug activity.

