

House Bill 1303

By: Representatives Kelley of the 16<sup>th</sup>, Smith of the 18<sup>th</sup>, Lumsden of the 12<sup>th</sup>, Fincher of the 23<sup>rd</sup>, and Panitch of the 51<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 5 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to cruelty to children, so as to provide for the offense of possession of a controlled  
3 substance in the presence of a child; to provide for definitions; to provide for penalties; to  
4 provide for limitations on the merger of other offenses arising from the same conduct; to  
5 provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 5 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to  
9 cruelty to children, is amended by adding a new Code section to read as follows:

10 "16-5-74.

11 (a) As used in this Code section, the term:

12 (1) 'Child' means any person under the age of 14 years.

13 (2) 'Controlled substance' shall have the same meaning as set forth in Code  
14 Section 16-13-21.

15 (3) 'Possession' means control, ownership, or the right to control a controlled substance  
16 pursuant to Code Section 16-13-30.

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17 (b) A person commits the offense of possession of a controlled substance in the presence  
18 of a child when such person knowingly:

19 (1) Is in possession of any controlled substance; and

20 (2) While in possession of such substance, has one of more children present in the same  
21 vehicle, structure, or immediate area under such person's control.

22 (c)(1) A person convicted of the offense of possession of a controlled substance in the  
23 presence of a child shall be punished as for a misdemeanor of a high and aggravated  
24 nature.

25 (2) A person convicted of a second or subsequent offense of possession of a controlled  
26 substance in the presence of a child, or if a conviction is a result of the possession of a  
27 Schedule I or Schedule II controlled substance, such person shall be guilty of a felony and  
28 shall be punished by imprisonment for not less than one year nor more than three years  
29 or a fine of \$5,000.00, or both.

30 (d) Each child present during the commission of the offense provided for in subsection (b)  
31 of this Code section shall constitute a separate offense. A prosecution under this Code  
32 section shall not merge with any other offense arising from the same conduct and may be  
33 punished separately."

34 **SECTION 2.**

35 All laws and parts of laws in conflict with this Act are repealed.