

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 250
Committee Substitute Favorable 3/21/23

Short Title: Death by Distribution/Good Samaritan/Autopsy.

(Public)

Sponsors:

Referred to:

March 2, 2023

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE OFFENSE OF DEATH BY DISTRIBUTION TO INCLUDE THE UNLAWFUL DELIVERY AND INGESTION OF CERTAIN CONTROLLED SUBSTANCES THAT PROXIMATELY CAUSES THE DEATH OF A PERSON; TO INCREASE THE PUNISHMENTS FOR A PERSON WHO COMMITS THE OFFENSE OF DEATH BY DISTRIBUTION; TO ADD POSSESSION OF LESS THAN ONE GRAM OF ANY CONTROLLED SUBSTANCE TO THE LIST OF OFFENSES FOR WHICH LIMITED IMMUNITY FROM PROSECUTION APPLIES FOR AN INDIVIDUAL WHO SEEKS MEDICAL ASSISTANCE; AND TO MAKE CERTAIN AUTOPSY LAW CHANGES.

The General Assembly of North Carolina enacts:

DEATH BY DISTRIBUTION REVISIONS

SECTION 1. G.S. 14-17 reads as rewritten:

"§ 14-17. Murder in the first and second degree defined; punishment.

...

(a1) If a murder was perpetrated with malice as described in ~~subdivision (1)~~ of subsection (b) of this section, and committed against a spouse, former spouse, a person with whom the defendant lives or has lived as if married, a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6), or a person with whom the defendant shares a child in common, there shall be a rebuttable presumption that the murder is a "willful, deliberate, and premeditated killing" under subsection (a) of this section and shall be deemed to be murder in the first degree, a Class A felony, if the perpetrator has previously been convicted of one of the following offenses involving the same victim:

- (1) An act of domestic violence as defined in G.S. 50B-1(a).
- (2) A violation of a domestic violence protective order under G.S. 50B-4.1(a), (f), (g), or (g1) or G.S. 14-269.8 when the same victim is the subject of the domestic violence protective order.
- (3) Communicating a threat under G.S. 14-277.1.
- (4) Stalking as defined in G.S. 14-277.3A.
- (5) Cyberstalking as defined in G.S. 14-196.3.
- (6) Domestic criminal trespass as defined in G.S. 14-134.3.

(b) A murder other than described in subsection (a) or (a1) of this section or in G.S. 14-23.2 shall be deemed second degree murder. Any person who commits second degree murder shall be punished as a Class B1 felon, except that a person who commits second degree murder shall be punished as a Class B2 felon ~~in either of the following circumstances:~~



1 (1) ~~The if the malice necessary to prove second degree murder is based on an~~
 2 inherently dangerous act or omission, done in such a reckless and wanton
 3 manner as to manifest a mind utterly without regard for human life and social
 4 duty and deliberately bent on mischief.

5 (2) ~~The murder is one that was proximately caused by the unlawful distribution~~
 6 ~~of any opium, opiate, or opioid; any synthetic or natural salt, compound,~~
 7 ~~derivative, or preparation of opium, or opiate, or opioid; cocaine or other~~
 8 ~~substance described in G.S. 90-90(1)d.; methamphetamine; or a depressant~~
 9 ~~described in G.S. 90-92(a)(1), and the ingestion of such substance caused the~~
 10 ~~death of the user.~~

11 "

12 **SECTION 2.** G.S. 14-18.4 reads as rewritten:

13 "**§ 14-18.4. Death by distribution of certain controlled substances; aggravated death by**
 14 **distribution of certain controlled substances; penalties.**

15 ...

16 (a1) Death by Distribution Through Unlawful Delivery of Certain Controlled Substances.

17 – A person is guilty of death by distribution through unlawful delivery of certain controlled
 18 substances if all of the following requirements are met:

19 (1) The person unlawfully delivers at least one certain controlled substance.

20 (2) The ingestion of the certain controlled substance or substances causes the
 21 death of the user.

22 (3) The commission of the offense in subdivision (1) of this subsection was the
 23 proximate cause of the victim's death.

24 (a2) Death by Distribution Through Unlawful Delivery with Malice of Certain Controlled
 25 Substances. – A person is guilty of death by distribution through unlawful delivery with malice
 26 of certain controlled substances if all of the following requirements are met:

27 (1) The person unlawfully delivers at least one certain controlled substance.

28 (2) The person acted with malice.

29 (3) The ingestion of the certain controlled substance or substances causes the
 30 death of the user.

31 (4) The commission of the offense in subdivision (1) of this subsection was the
 32 proximate cause of the victim's death.

33 (b) Death by Distribution Through Unlawful Sale of Certain Controlled Substances. – A
 34 person is guilty of death by distribution through unlawful sale of certain controlled substances if
 35 all of the following requirements are met:

36 (1) The person unlawfully sells at least one certain controlled substance.

37 (2) The ingestion of the certain controlled substance or substances causes the
 38 death of the user.

39 (3) The commission of the offense in subdivision (1) of this subsection was the
 40 proximate cause of the victim's death.

41 (4) ~~The person did not act with malice.~~

42 (c) Aggravated Death by Distribution Through Unlawful Sale of Certain Controlled
 43 Substances. – A person is guilty of aggravated death by distribution through unlawful sale of
 44 certain controlled substances if all of the following requirements are met:

45 (1) The person unlawfully sells at least one certain controlled substance.

46 (2) The ingestion of the certain controlled substance or substances causes the
 47 death of the user.

48 (3) The commission of the offense in subdivision (1) of this subsection was the
 49 proximate cause of the victim's death.

50 (4) ~~The person did not act with malice.~~

(5) The person has a previous conviction under this section, G.S. 90-95(a)(1), 90-95.1, 90-95.4, 90-95.6, or trafficking in violation of G.S. 90-95(h), or a prior conviction in any federal or state court in the United States that is substantially similar to an offense listed, within ~~seven~~10 years of the date of the offense. In calculating the ~~seven-year~~10-year period under this subdivision, any period of time during which the person was incarcerated in a local, state, or federal detention center, jail, or prison shall be excluded.

...

(e) Lesser Included Offense. – Death by distribution through unlawful sale of certain controlled substances constitutes a lesser included offense of aggravated death by distribution through unlawful sale of certain controlled substances in violation of this section.

...

(h) Penalties. – Unless the conduct is covered under some other provision of law providing greater punishment, the following classifications apply to the offenses set forth in this section:

- (1) ~~Death by distribution of certain controlled substances~~ A violation of subsection (a1) of this section is a Class C felony.
- (1a) A violation of subsection (a2) or (b) of this section is a Class C-B2 felony.
- (2) ~~Aggravated death by distribution of certain controlled substances~~ A violation of subsection (c) of this section is a Class B2-B1 felony."

REVISE GOOD SAMARITAN IMMUNITY LAW FOR POSSESSION OF ANY CONTROLLED SUBSTANCE

SECTION 3. G.S. 90-96.2(c3) reads as rewritten:

"(c3) Covered Offenses. – A person shall have limited immunity from prosecution under subsections (b) and (c) of this section for only the following offenses:

- (1) A misdemeanor violation of G.S. 90-95(a)(3).
- (2) A felony violation of G.S. 90-95(a)(3) for possession of less than one gram of ~~cocaine~~any controlled substance.
- ~~(3) A felony violation of G.S. 90-95(a)(3) for possession of less than one gram of heroin.~~
- (4) A violation of G.S. 90-113.22."

AUTOPSY LAW CHANGES

SECTION 4.(a) G.S. 130A-389(a) reads as rewritten:

"(a) If, in the opinion of the medical examiner investigating the case or of the Chief Medical Examiner, it is advisable and in the public interest that an autopsy or other study be made; or, if an autopsy or other study is requested by the district attorney of the county or by any superior court judge, an autopsy or other study shall be made by the Chief Medical Examiner or by a competent pathologist designated by the Chief Medical Examiner. In any case where the district attorney of the county or the investigating law enforcement agency asserts to the Chief Medical Examiner or the medical examiner of the county in which the body was located that probable cause exists that a violation of G.S. 14-18.4 has occurred, a complete autopsy shall be conducted. A complete autopsy report of findings and interpretations, prepared on forms designated for the purpose, shall be submitted promptly to the Chief Medical Examiner. Subject to the limitations of G.S. 130A-389.1 relating to photographs and video or audio recordings of an autopsy, a copy of the report shall be furnished to any person upon request. The fee for the autopsy or other study shall be two thousand eight hundred dollars (\$2,800) to be paid as follows:

...."

SECTION 4.(b) This section becomes effective December 1, 2023, and applies to autopsies conducted on or after that date.

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EFFECTIVE DATE

SECTION 5. Except as otherwise provided, this act becomes effective December 1, 2023, and applies to offenses committed on or after that date.