



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 270*

131st General Assembly
(As Reported by H. Judiciary)

Reps. Dever and Pelanda, Becker, Conditt, G. Johnson, S. O'Brien, Sprague

BILL SUMMARY

- Expands the offense of involuntary manslaughter to include causing or contributing to the death of another or the unlawful termination of another's pregnancy as a result of the offender's illegal sale, distribution, dispensation, or administration of a controlled substance or controlled substance analog.
- Makes the new form of involuntary manslaughter a strict liability offense.
- Prescribes specific penalties for a violation of the new form of involuntary manslaughter, and requires a court to consider specified aggravating factors in imposing a sentence for the violation.

CONTENT AND OPERATION

Involuntary manslaughter by drug overdose

The bill expands the offense of involuntary manslaughter. Under current law, involuntary manslaughter consists of causing the death of another or the unlawful termination of another's pregnancy as a proximate result of the offender's committing or attempting to commit either (1) a felony or (2) a misdemeanor, a regulatory offense, or a minor misdemeanor other than a motor vehicle-related minor misdemeanor. Involuntary manslaughter resulting from the commission of a felony is a felony of the first degree; otherwise, involuntary manslaughter is a felony of the third degree.¹

* This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

¹ R.C. 2903.04(A), (B), and (C) (redesignated "(D)" in the bill and unchanged in substance by the bill).

Under the bill, involuntary manslaughter also includes causing or contributing to the death of another or the unlawful termination of another's pregnancy as a result of the offender's sale, distribution, dispensation, or administration of a controlled substance or controlled substance analog in violation of any provision of the Drug Offenses Law (R.C. Chapter 2925.). The conduct of the victim is not a defense to a charge of violating the above prohibition.²

The bill makes the new form of involuntary manslaughter a strict liability offense, meaning that the prosecution need not demonstrate a culpable mental state such as knowledge or recklessness on the part of the offender in order to obtain a conviction. The bill further states that the designation of the new form of involuntary manslaughter as a strict liability offense does not imply that any other offense for which no degree of culpability is specified is not a strict liability offense (see **COMMENT**).³

Penalty

The new form of involuntary manslaughter is a felony, and notwithstanding the Felony Sentencing Laws, the court must impose on the offender one of the following sentences:⁴

(1) A definite prison term of 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, or 20 years;

(2) A fine of not more than \$10,000;

(3) A community control sanction if no more than one of the aggravating factors described below apply to the offender and the court finds any of the following:

- The offender was a co-user of the controlled substance or controlled substance analog with the victim.
- The offender did not engage in the sale, distribution, dispensation, or administration of the controlled substance or controlled substance analog to the victim for personal profit.
- The offender is a family member or close personal friend of the victim.

² R.C. 2903.04(C).

³ R.C. 2903.04(C).

⁴ R.C. 2903.04(D)(4).



Aggravating factors

In imposing a sentence for the new form of involuntary manslaughter, the court must comply with the purposes and principles of sentencing in R.C. 2929.11 and consider the factors in R.C. 2929.12 (seriousness of crime and recidivism factors) and the following aggravating factors:⁵

(1) The offender was previously convicted of aggravated trafficking in drugs or trafficking in drugs or was engaged as a normal practice in any of the acts that could constitute either offense.

(2) The offender sold, distributed, dispensed, or administered, or caused to be sold, distributed, dispensed, or administered a mixture of various controlled substances or analogs to the victim.

(3) The offender knew or should have known that the victim was participating in or had completed a drug rehabilitation program.

(4) The offender deceived the victim regarding the nature of, or the mixture, preparation, or compound containing the controlled substance or analog.

(5) The offender was part of a criminal enterprise involving controlled substances or analogs.

(6) The offender failed to obtain medical assistance for the victim.

Definitions

As used in the bill, "controlled substance" and "controlled substance analog" have the same meanings as in the existing Controlled Substances Law.⁶

COMMENT

R.C. 2901.20, enacted by the 130th General Assembly, requires that every future act creating a new criminal offense specify the degree of mental culpability necessary for the commission of the offense. The bill declares that under R.C. 2901.20 strict liability is a culpable mental state.

⁵ R.C. 2903.04(F).

⁶ R.C. 2903.04(G).

HISTORY

ACTION

DATE

Introduced
Reported, H. Judiciary

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