

**Representative Steve Eliason** proposes the following substitute bill:

**DRUG DISTRIBUTION INDUCED HOMICIDE**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Eliason**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill establishes the offense of drug-induced homicide.

**Highlighted Provisions:**

This bill:

- ▶ provides that an individual commits the offense of drug-induced homicide if the individual, acting as part of a continuing criminal enterprise, knowingly and unlawfully distributes a controlled substance to another individual causing the other individual's death;
- ▶ establishes an exception to drug-induced homicide resulting from the lawful distribution of a controlled substance by a licensed practitioner;
- ▶ establishes that drug-induced homicide is a first degree felony;
- ▶ establishes that it is a mitigating factor in sentencing for the offense of drug-induced homicide if the individual distributing a controlled substance reports an overdose to a proper authority; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **76-3-203.11**, as enacted by Laws of Utah 2014, Chapter 19

30 **76-5-201**, as last amended by Laws of Utah 2010, Chapter 13

31 ENACTS:

32 **76-5-211**, Utah Code Annotated 1953



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **76-3-203.11** is amended to read:

36 **76-3-203.11. Reporting an overdose -- Mitigating factor.**

37 It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah  
38 Controlled Substances Act, and Section **76-5-211**, that the [person] individual:

39 (1) reasonably believes that the [person] individual or another [person] individual is  
40 experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction  
41 into the human body of a controlled substance or other substance;

42 (2) reports in good faith the overdose event to a medical provider, an emergency  
43 medical service provider as defined in Section **26-8a-102**, a law enforcement officer, a 911  
44 emergency call system, or an emergency dispatch system, or the [person] individual is the  
45 subject of a report made under this section;

46 (3) provides in the report under Subsection (2) a functional description of the location  
47 of the actual overdose event that facilitates responding to the [person] individual experiencing  
48 the overdose event;

49 (4) remains at the location of the [person] individual experiencing the overdose event  
50 until a responding law enforcement officer or emergency medical service provider arrives, or  
51 remains at the medical care facility where the [person] individual experiencing an overdose  
52 event is located until a responding law enforcement officer arrives;

53 (5) cooperates with the responding medical provider, emergency medical service  
54 provider, and law enforcement officer, including providing information regarding the [person]  
55 individual experiencing the overdose event and any substances the [person] individual may  
56 have injected, inhaled, or otherwise introduced into the [person's] individual's body; and

57 (6) committed the offense in the same course of events from which the reported  
58 overdose arose.

59 Section 2. Section **76-5-201** is amended to read:

60 **76-5-201. Criminal homicide -- Elements -- Designations of offenses -- Exceptions.**

61 (1) (a) Except as provided in Subsections (3) and (4), [~~a person~~] an individual commits  
62 criminal homicide if the [~~person~~] individual intentionally, knowingly, recklessly, with criminal  
63 negligence, or acting with a mental state otherwise specified in the statute defining the offense,  
64 causes the death of another human being, including an unborn child at any stage of its  
65 development.

66 (b) There shall be no cause of action for criminal homicide for the death of an unborn  
67 child caused by an abortion, as defined in Section 76-7-301.

68 (2) Criminal homicide is aggravated murder, murder, manslaughter, child abuse  
69 homicide, homicide by assault, negligent homicide, [~~or~~] automobile homicide, or drug-induced  
70 homicide.

71 (3) [~~A person~~] An individual is not guilty of criminal homicide of an unborn child if  
72 the sole reason for the death of the unborn child is that the [~~person~~] individual:

73 (a) refused to consent to:

74 (i) medical treatment; or

75 (ii) a cesarean section; or

76 (b) failed to follow medical advice.

77 (4) A woman is not guilty of criminal homicide of her own unborn child if the death of  
78 her unborn child:

79 (a) is caused by a criminally negligent act or reckless act of the woman; and

80 (b) is not caused by an intentional or knowing act of the woman.

81 Section 3. Section **76-5-211** is enacted to read:

82 **76-5-211. Drug-induced homicide.**

83 (1) As used in this section:

84 (a) "Administers" means the same as the term "administering" is defined in Subsection  
85 58-17b-102(1)(a).

86 (b) "Continuing criminal enterprise" means the same as that term is defined in  
87 Subsection 58-37-2(1)(d).

88 (c) "Dispense" means the same as that term is defined in Subsection 58-17b-102(22).

89 (d) "Distribute" means the same as that term is defined in Subsection 58-17b-102(25).

90 (e) "Drug," except as provided in Subsection (1)(f), means the same as the term

91 "controlled substance" is defined in Subsection 58-37-2(1).

92 (f) "Drug" does not include a controlled substance that a practitioner with authority to  
93 prescribe the controlled substance lawfully administers, dispenses, distributes, or prescribes:

94 (i) for a purpose that is not unprofessional or unlawful conduct, as defined in Section  
95 58-1-501; and

96 (ii) within the practitioner's scope of practice.

97 (g) "Practitioner" means an individual currently licensed, registered, or otherwise  
98 authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a  
99 controlled substance in the course of professional practice.

100 (h) "Prescribe" means the same as that term is defined in Subsection 58-17b-102(62).

101 (2) Criminal homicide is drug-induced homicide if, while engaged in a continuing  
102 criminal enterprise, the actor knowingly and unlawfully distributes a drug to another individual  
103 and the drug:

104 (a) is used by the other individual; and

105 (b) causes the death of the other individual.

106 (3) Drug-induced homicide is a first degree felony.