

DRUG INDUCED HOMICIDE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill concerns the offense of drug-induced homicide.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the offense of drug-induced homicide; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

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

ENACTS:

76-5-211, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

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

76-5-211, Utah Code Annotated 1953



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

29 Section 1. Section **76-5-201** is amended to read:

30 **76-5-201. Criminal homicide -- Elements -- Designations of offenses -- Exceptions.**

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

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

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

41 (3) A person is not guilty of criminal homicide of an unborn child if the sole reason for
42 the death of the unborn child is that the person:

43 (a) refused to consent to:

44 (i) medical treatment; or

45 (ii) a cesarean section; or

46 (b) failed to follow medical advice.

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

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

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

51 Section 2. Section **76-5-211** is enacted to read:

52 **76-5-211. Drug-induced homicide.**

53 (1) As used in this section:

54 (a) "Controlled substance" means:

55 (i) a substance or a counterfeit of a substance included in Schedule I or II of Section
56 [58-37-4](#) or Schedule I or II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

57 (ii) a controlled substance analog as that term is defined in Section [58-37-2](#).

58 (b) "Distribute" means the same as that term is defined Section [58-37-2](#).

59 (2) Unless a violation of this Subsection (2) amounts to aggravated murder as
60 described in Section 76-5-202 or murder as described in Section 76-5-203, an actor commits
61 drug-induced homicide if:

62 (a) the actor unlawfully distributes a controlled substance in violation of Subsection
63 58-37-8(1)(a); and

64 (b) the controlled substance described in Subsection (2)(a) causes or contributes to the
65 death of an individual who ingests, injects, inhales, or otherwise introduces the controlled
66 substance into the individual's body.

67 (3) A violation of Subsection (2) is a second degree felony.

68 (4) (a) It is not a defense to a prosecution under this section that the actor did not
69 directly distribute the controlled substance to the decedent.

70 (b) It is an affirmative defense to a prosecution under this section that the actor made a
71 good faith effort to promptly seek, provide, or obtain emergency medical or law enforcement
72 assistance for an individual experiencing a medical emergency after ingesting, injecting,
73 inhaling, or otherwise introducing into the individual's body the controlled substance described
74 in Subsection (2)(a).

75 **Section 3. Coordinating S.B. 189 with S.B. 123 -- Technical amendments.**

76 If this S.B. 189 and S.B. 123, Criminal Code Recodification, both pass and become
77 law, it is the intent of the Legislature that the Office of Legislative Research and General
78 Counsel prepare the Utah Code database for publication by amending:

79 (1) Subsection 76-5-201(2) to read:

80 "(2) The following are criminal homicide:

81 (a) aggravated murder;

82 (b) murder;

83 (c) manslaughter;

84 (d) child abuse homicide;

85 (e) homicide by assault;

86 (f) negligent homicide;

87 (g) automobile homicide; and

88 (h) drug-induced homicide."; and

89 (2) Subsection 76-5-211(1) to read:

- 90 "(1) (a) As used in this section:
- 91 (i) "Controlled substance" means:
- 92 (A) a substance or a counterfeit of a substance included in Schedule I or II of Section
- 93 58-37-4 or Schedule I or II of the federal Controlled Substances Act, Title II, P.L. 91-513; or
- 94 (B) a controlled substance analog as that term is defined in Section 58-37-2.
- 95 (ii) "Distribute" means the same as that term is defined Section 58-37-2.
- 96 (b) The terms defined in Section 76-1-101.5 apply to this section."

97 **Section 4. Coordinating S.B. 189 with S.B. 123 and H.B. 29 -- Technical**
98 **amendment.**

99 If this S.B. 189, S.B. 123, Criminal Code Recodification, and H.B. 29, Driving
100 Offenses Amendments, all pass and become law, it is the intent of the Legislature that the
101 Office of Legislative Research and General Counsel prepare the Utah Code database for
102 publication by amending Subsection 76-5-201(2) to read:

- 103 "(2) The following are criminal homicide:
- 104 (a) aggravated murder;
- 105 (b) murder;
- 106 (c) manslaughter;
- 107 (d) child abuse homicide;
- 108 (e) homicide by assault;
- 109 (f) negligent homicide;
- 110 (g) negligently operating a vehicle resulting in death; and
- 111 (h) drug-induced homicide."