

As Reported by the House Judiciary Committee

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 270

Representatives Dever, Pelanda

**Cosponsors: Representatives Becker, Conditt, Johnson, G., O'Brien, S., Sprague,
Butler**

A BILL

To amend section 2903.04 of the Revised Code to 1
provide that causing or contributing to the 2
death of another person as a result of the 3
offender's sale, distribution, dispensation, or 4
administration of a controlled substance or 5
controlled substance analog is a violation of 6
the offense of involuntary manslaughter and to 7
make this offense a strict liability offense. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2903.04 of the Revised Code be 9
amended to read as follows: 10

Sec. 2903.04. (A) No person shall cause the death of 11
another or the unlawful termination of another's pregnancy as a 12
proximate result of the offender's committing or attempting to 13
commit a felony. 14

(B) No person shall cause the death of another or the 15
unlawful termination of another's pregnancy as a proximate 16
result of the offender's committing or attempting to commit a 17

misdemeanor of any degree, a regulatory offense, or a minor 18
misdemeanor other than a violation of any section contained in 19
Title XLV of the Revised Code that is a minor misdemeanor and 20
other than a violation of an ordinance of a municipal 21
corporation that, regardless of the penalty set by ordinance for 22
the violation, is substantially equivalent to any section 23
contained in Title XLV of the Revised Code that is a minor 24
misdemeanor. 25

(C) No person shall cause or contribute to the death of 26
another or the unlawful termination of another's pregnancy as a 27
result of the offender's sale, distribution, dispensation, or 28
administration of any controlled substance or controlled 29
substance analog in violation of any provision of Chapter 2925. 30
of the Revised Code. 31

The offense established under this division is a strict 32
liability offense, and strict liability is a culpable mental 33
state under section 2901.20 of the Revised Code. The designation 34
of this offense as a strict liability offense shall not be 35
construed to imply that any other offense, for which there is no 36
specified degree of culpability, is not a strict liability 37
offense. 38

The conduct of the victim is not a defense to a charge 39
under this division. 40

(D) (1) Whoever violates this section is guilty of 41
involuntary manslaughter. ~~Violation~~ 42

(2) Violation of division (A) ~~or (C)~~ of this section is a 43
felony of the first degree. ~~Violation~~ 44

(3) Violation of division (B) of this section is a felony 45
of the third degree. 46

(4) Violation of division (C) of this section is a felony 47
and, notwithstanding section 2929.14 or 2929.18 of the Revised 48
Code, the court shall impose on the offender one of the 49
following sentences: 50

(a) A definite prison term of one, two, three, four, five, 51
six, seven, eight, nine, ten, eleven, twelve, thirteen, 52
fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, or 53
twenty years; 54

(b) A fine of not more than ten thousand dollars; 55

(c) A community control sanction under section 2929.15 of 56
the Revised Code if no more than one of the aggravating factors 57
specified in division (F) of this section apply to the offender 58
and the court finds any of the following: 59

(i) The offender was a co-user of the controlled substance 60
or controlled substance analog with the victim. 61

(ii) The offender did not engage in the sale, 62
distribution, dispensation, or administration of the controlled 63
substance or controlled substance analog to the victim for 64
personal profit. 65

(iii) The offender is a family member or close personal 66
friend of the victim. 67

~~(D)~~(E) If an offender is convicted of or pleads guilty to 68
a violation of division (A) or (B) of this section and if the 69
felony, misdemeanor, or regulatory offense that the offender 70
committed or attempted to commit, that proximately resulted in 71
the death of the other person or the unlawful termination of 72
another's pregnancy, and that is the basis of the offender's 73
violation of division (A) or (B) of this section was a violation 74
of division (A) or (B) of section 4511.19 of the Revised Code or 75

of a substantially equivalent municipal ordinance or included, 76
as an element of that felony, misdemeanor, or regulatory 77
offense, the offender's operation or participation in the 78
operation of a snowmobile, locomotive, watercraft, or aircraft 79
while the offender was under the influence of alcohol, a drug of 80
abuse, or alcohol and a drug of abuse, both of the following 81
apply: 82

(1) The court shall impose a class one suspension of the 83
offender's driver's or commercial driver's license or permit or 84
nonresident operating privilege as specified in division (A) (1) 85
of section 4510.02 of the Revised Code. 86

(2) The court shall impose a mandatory prison term for the 87
violation of division (A) or (B) of this section from the range 88
of prison terms authorized for the level of the offense under 89
section 2929.14 of the Revised Code. 90

(F) In imposing a sentence for a violation of division (C) 91
of this section, the court shall comply with the purposes and 92
principles of sentencing in section 2929.11 of the Revised Code 93
and shall consider the factors specified in section 2929.12 of 94
the Revised Code and the following aggravating factors: 95

(1) The offender was previously convicted of or pleaded 96
guilty to aggravated trafficking in drugs or trafficking in 97
drugs in violation of section 2925.03 of the Revised Code or was 98
engaged as a normal practice in any of the acts that could 99
constitute that violation. 100

(2) The offender sold, distributed, dispensed, or 101
administered or caused to be sold, distributed, dispensed, or 102
administered a mixture of various controlled substances or 103
controlled substance analogs to the victim. 104

(3) The offender knew or should have known that the victim 105
was participating in or had completed a drug rehabilitation 106
program. 107

(4) The offender deceived the victim regarding the nature 108
of, or the mixture, preparation, or compound containing the 109
controlled substance or controlled substance analog. 110

(5) The offender was part of a criminal enterprise 111
involving controlled substances or controlled substance analogs. 112

(6) The offender failed to obtain medical assistance for 113
the victim. 114

(G) As used in this section, "controlled substance" and 115
"controlled substance analog" have the same meanings as in 116
section 3719.01 of the Revised Code. 117

Section 2. That existing section 2903.04 of the Revised 118
Code is hereby repealed. 119