

As Passed by the House

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 270

Representatives Dever, Pelanda

Cosponsors: Representatives Becker, Conditt, O'Brien, S., Sprague, Butler, Anielski, Antani, Blessing, Boose, Cupp, Dean, Ginter, Goodman, Hambley, Hayes, Huffman, Koehler, LaTourette, Maag, McColley, Patmon, Perales, Ryan, Smith, R., Terhar, Thompson, Young

A BILL

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

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

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

Sec. 2903.04. (A) No person shall cause 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 a felony.

(B) No person shall cause 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 a
misdemeanor of any degree, a regulatory offense, or a minor
misdemeanor other than a violation of any section contained in
Title XLV of the Revised Code that is a minor misdemeanor and
other than a violation of an ordinance of a municipal
corporation that, regardless of the penalty set by ordinance for
the violation, is substantially equivalent to any section
contained in Title XLV of the Revised Code that is a minor
misdemeanor.

(C) No person shall cause or contribute 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 any controlled substance or controlled
substance analog in violation of any provision of Chapter 2925.
of the Revised Code.

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

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

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

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

(3) Violation of division (B) of this section is a felony

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