



Summary

Drug-induced homicide laws seek to prevent overdose death by deterring transfers of illegal drugs. The laws generally make it so that if someone dies of a drug overdose, the person who provided them with the drug can be convicted of a homicide for that fact alone.

There has been renewed interest in drug-induced homicide laws in the wake of a nationwide overdose epidemic, largely caused by the potent and deadly synthetic opioid fentanyl. Fentanyl is often deadly even to those who seek it out, but producers often include it as an ingredient in items marketed as other drugs because it is cheaper and produces a more intense high, often with deadly consequences for unwitting users.

More information

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Public Health Evidence Against Drug Trafficking Homicide Laws in Arizona

No evidence that drug-induced homicide laws work

There is no credible evidence that drug-induced homicide laws decrease overdose deaths. Indeed, the only study that has purported to find a link between DIH laws and lower drug overdose mortality rates¹ has been thoroughly discredited for using incorrect data, including the wrong year for the effective date of the DIH law for every single state it analyzed.² And four of the six states that have enacted DIH laws since 1999 now rank worse among the 50 states in overdose mortality rate than they did before they enacted their law.³

Crowds out cheaper, more promising measures

Incarcerating persons for long sentences costs tens of thousands of dollars per defendant every year and will likely produce little if any effect on overdose mortality rates.⁴ That money would be much better spent on evidence-based measures that prevent overdose deaths, some [explicitly endorsed by the Arizona Department of Health Services](#), including:

- Expanding access to Medication-Assisted Treatment for addiction⁵
- Expanding access to Naloxone, which directly prevents overdoses⁶
- Funding and distributing Fentanyl test strips
- Educating the public about Naloxone, fentanyl test strips, and Good Samaritan Laws⁷

No exceptions for calling 911

Arizona's Good Samaritan law promotes life-saving care for an overdosing person by protecting a Samaritan from prosecution from low-level drug offenses when the Samaritan seeks medical assistance for the victim.⁸ There is some evidence that Good Samaritan Laws may lower overdose mortality rates over time.⁹ A drug-induced homicide law would counteract Arizona's Good Samaritan law—if the victim dies of an overdose, the DIH law and not the Good Samaritan Law would apply if a potential Samaritan has shared drugs with the victim. The potentially harsh penalties under a DIH law may deter people from seeking medical assistance for overdosing victims because they fear they will be prosecuted for homicide if the victim dies.¹⁰

Punishes friends and relatives of victims, not traffickers

In practice, the last person with the victim is usually the person charged under drug-induced homicide laws.¹¹ This person is usually a friend or relative of the victim who transferred drugs directly to the victim, not a high-level trafficker. Almost 80% of prosecutions were against friends, according to a study in New Jersey.¹² In Wisconsin, 89% of defendants provided drugs directly to the victim.¹³

Does not require a sale

Drug-induced homicide laws may make a person guilty of homicide if they “transfer” a qualifying illegal drug and the recipient dies.¹⁴ An addict who shares drugs with an addicted friend thus might have the same criminal exposure as a high-level dealer who knowingly sells drugs spiked with fentanyl.

Does not target the source of the drugs

Illicit Fentanyl—the primary driver of increasing overdose deaths—is generally imported from overseas. As of 2017, DEA had never found a fentanyl lab operating in the United States.¹⁵ It is generally produced in China and Mexico and requires complex chemistry knowledge.¹⁶ Drug-induced homicide laws do little to target these sources for the same reason that they don’t effectively target high-level traffickers: high level transfers may be several levels removed from the victim and the original source may be difficult or impossible to identify.

The views expressed in this brief do not necessarily reflect those of the University of Arizona.

References

¹ Youngeun Lee, Sung W. Choi & Jonathan Lee, *Longitudinal Study on Deterrent Effect of Drug-Induced Homicide Law on Opioid-Related Mortality Across 92 Counties and the District of Columbia in the U.S.*, JOURNAL OF DRUG ISSUES (2021).

² See Carroll, Jennifer et al., *A Discussion of Critical Errors in the Study 'Longitudinal Study on Deterrent Effect of Drug-Induced Homicide Law on Opioid-Related Mortality Across 92 Counties and the District of Columbia in the U.S.'* (July 24, 2022). Available at SSRN: <https://ssrn.com/abstract=4171058> or <http://dx.doi.org/10.2139/ssrn.4171058>.

| State | DIH law enacted* | Rank before DIH law** | Rank in 2020** | movement |
|-------|------------------|-------------------------|------------------|----------|
| AK | 2006 | 33 rd (2005) | 19 th | ↑14 |
| DE | 2016 | 39 th (2015) | 48 th | ↓9 |
| KS | 2013 | 19 th (2005) | 8 th | ↑11 |
| KY | 2019 | 42 nd (2018) | 49 th | ↓7 |
| MI | 2006 | 24 th (2005) | 28 th | ↓4 |
| VT | 2003 | 22 nd (1999) | 33 rd | ↓11 |

*Legislative sources available upon request

**Based on state overdose mortality rates for 1999, 2005, and annually from 2013-2020 available from the CDC's National Center for Health Statistics, https://www.cdc.gov/nchs/pressroom/sosmap/drug_poisoning_mortality/drug_poisoning.htm.

⁴ Studies consistently find that increased criminal penalties do not deter drug use. *AN OVERDOSE DEATH IS NOT MURDER: WHY DRUG-INDUCED HOMICIDE LAWS ARE COUNTERPRODUCTIVE AND INHUMANE - Document - Gale Academic OneFile*. (2017), 39-40. Retrieved February 8, 2022, from https://go-gale-com.ezproxy4.library.arizona.edu/ps/i.do?p=AONE&u=uarizona_main&id=GALE%7CA513229105&v=2.1&it=r.

⁵ *AN OVERDOSE DEATH IS NOT MURDER: WHY DRUG-INDUCED HOMICIDE LAWS ARE COUNTERPRODUCTIVE AND INHUMANE - Document - Gale Academic OneFile*. (2017). Retrieved February 8, 2022, from https://go-gale-com.ezproxy4.library.arizona.edu/ps/i.do?p=AONE&u=uarizona_main&id=GALE%7CA513229105&v=2.1&it=r.

⁶ Rees, D. I., Sabia, J. J., Argys, L. M., Dave, D., & Latshaw, J. (2019). *With a little help from my friends: The effects of good samaritan and naloxone access laws on opioid-related deaths*. *Journal of Law and Economics*, 62(1), 1–27. <https://doi.org/10.1086/700703>.

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⁸ A.R.S. §13-3423.

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¹⁴ A.R.S. § 13-3408.

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