



HB2021 Summary

HB 2021 seeks to prevent overdose death by deterring transfers of illegal drugs. If someone dies of a drug overdose, the person who provided them with the drug can be convicted of “drug trafficking homicide,” a class 1 felony with up to a 25-year sentence for first time offenders and even tougher penalties for previous offenders and minor victims.

Background

Drug trafficking homicide laws generally intend to reduce overdose deaths by deterring dealing of illicit drugs, which are widely contaminated with the potent and deadly synthetic opioid fentanyl.

Fentanyl is responsible for the majority of the increase in opioid overdoses in recent years. Producers include fentanyl as an ingredient in items marketed as other drugs because it is cheaper and produces a more intense high.

More information

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HB2021 - Public Health Evidence Against Drug Trafficking Homicide Laws

No evidence that drug-induced homicide laws work

There is no credible evidence that drug-induced homicide laws decrease overdose deaths. The study offered in support of HB 2021 is not scientific.¹ It attempted to compare overdose mortality rates in several states before and after drug-induced homicide laws were enacted, but used incorrect data for the effective dates of the laws in every single state it analyzed. In fact, every single effective date was off by at least four years. (See attached memo.)

Crowds out cheaper measures that work

Incarcerating persons for long sentences under HB 2021 will cost tens of thousands of dollars per defendant every year and will likely produce little if any effect on overdose mortality rates.² That money would be much better spent on evidence-based measures that prevent overdose deaths (some are [explicitly endorsed by ADHS](#)):

- Expanding access to Medication-Assisted Treatment for addicts³
- Expanding access to Naloxone, which directly prevents overdoses⁴
- Funding and distributing Fentanyl test strips
- Educating the public about Naloxone, fentanyl test strips, and Good Samaritan Laws⁵

No exceptions for calling 911

Arizona’s Good Samaritan law partially protects both a Samaritan and overdosing victim from prosecution from low-level drug offenses when a Samaritan seeks medical assistance for the victim.⁶ There is some evidence that Good Samaritan Laws may lower overdose mortality rates over time.⁷ HB 2021 counteracts Arizona’s Good Samaritan law—if the victim dies, HB 2021 and not the Good Samaritan Law would apply. The harsh penalties in HB2021 may deter people from seeking medical assistance for overdosing victims because they are scared they will be prosecuted for homicide if the victim dies.⁸

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.⁹ 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.¹⁰ In Wisconsin, 89% of defendants provided drugs directly to the victim.¹¹

Does not require a sale

HB 2021 makes a person guilty of homicide if they “transfer” a qualifying illegal drug and the recipient dies.¹² An addict who shares drugs with an addicted friend for the friend’s personal use has the same criminal exposure as a high-level dealer who knowingly traffics in drugs spiked with fentanyl.

Cannot target producers

Illicit Fentanyl—the primary driver of increasing overdose deaths—is not made in the United States. As of 2017, DEA had never found a fentanyl lab operating in the United States.¹³ It is generally produced in China and Mexico and requires complex chemistry knowledge.¹⁴

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

References

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² 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.

³ *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.

⁴ 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>.

⁵ Latimore, A. D., & Bergstein, R. S. (2017). “Caught with a body” yet protected by law? calling 911 for opioid overdose in the context of the good samaritan law. *International Journal of Drug Policy*, 50, 82–89. <https://doi.org/10.1016/j.drugpo.2017.09.010>; 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>.

⁶ A.R.S. §13-3423.

⁷ Hamilton, L., Davis, C. S., Kravitz-Wirtz, N., Ponicki, W., & Cerdá, M. (2021). Good Samaritan laws and overdose mortality in the United States in the fentanyl era. *International Journal of Drug Policy*, 97, 103294. <https://doi.org/10.1016/J.DRUGPO.2021.103294>

⁸ Latimore, A. D., & Bergstein, R. S. (2017). “Caught with a body” yet protected by law? calling 911 for opioid overdose in the context of the good samaritan law. *International Journal of Drug Policy*, 50, 82–89. <https://doi.org/10.1016/j.drugpo.2017.09.010>; McLean, K. (2016). Good samaritans vs. predatory peddlers: Problematizing the war on overdose in the United States. *Journal of Crime and Justice*, 41(1), 1–13. <https://doi.org/10.1080/0735648x.2016.1215932>.

⁹ Milwaukee, F.O.X.6N. (2020, July 28). *High-level drug dealers rarely charged with drug-related homicides as Wisconsin death toll reaches 10k*. FOX6 News Milwaukee | Wisconsin & Local Milwaukee News WITI. Retrieved February 8, 2022, from <https://www.fox6now.com/news/high-level-drug-dealers-rarely-charged-with-drug-related-homicides-as-wisconsin-death-toll-reaches-10k>.

¹⁰ Jim Edwards, “Making Friends into Felons,” *New Jersey Law Journal*, Sept. 9, 2002, at 1.

¹¹ Milwaukee, F.O.X.6N. (2020, July 28). *High-level drug dealers rarely charged with drug-related homicides as Wisconsin death toll reaches 10k*. FOX6 News Milwaukee | Wisconsin & Local Milwaukee News WITI. Retrieved February 8, 2022, from <https://www.fox6now.com/news/high-level-drug-dealers-rarely-charged-with-drug-related-homicides-as-wisconsin-death-toll-reaches-10k>.

¹² A.R.S. § 13-3408.

¹³ Niiler, E. (2017, March 1). *Keeping fentanyl out of the US will take more than a wall*. *Wired*. Retrieved February 8, 2022, from <https://www.wired.com/2017/03/keeping-fentanyl-us-will-take-wall/>

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