

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 250

Short Title: Death by Distribution Revisions. (Public)

Sponsors: Representatives Arp, K. Baker, Wray, and Carson Smith (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

March 2, 2023

A BILL TO BE ENTITLED
AN ACT TO MODIFY THE OFFENSE OF DEATH BY DISTRIBUTION TO INCLUDE THE
UNLAWFUL DELIVERY AND INGESTION OF CERTAIN CONTROLLED
SUBSTANCES THAT PROXIMATELY CAUSES THE DEATH OF A PERSON AND TO
INCREASE THE PUNISHMENTS FOR A PERSON WHO COMMITS THE OFFENSE
OF DEATH BY DISTRIBUTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-17 reads as rewritten:

"§ 14-17. Murder in the first and second degree defined; punishment.

...

(a1) If a murder was perpetrated with malice as described in ~~subdivision (1)~~ of subsection (b) of this section, and committed against a spouse, former spouse, a person with whom the defendant lives or has lived as if married, a person with whom the defendant is or has been in a dating relationship as defined in G.S. 50B-1(b)(6), or a person with whom the defendant shares a child in common, there shall be a rebuttable presumption that the murder is a "willful, deliberate, and premeditated killing" under subsection (a) of this section and shall be deemed to be murder in the first degree, a Class A felony, if the perpetrator has previously been convicted of one of the following offenses involving the same victim:

- (1) An act of domestic violence as defined in G.S. 50B-1(a).
- (2) A violation of a domestic violence protective order under G.S. 50B-4.1(a), (f), (g), or (g1) or G.S. 14-269.8 when the same victim is the subject of the domestic violence protective order.
- (3) Communicating a threat under G.S. 14-277.1.
- (4) Stalking as defined in G.S. 14-277.3A.
- (5) Cyberstalking as defined in G.S. 14-196.3.
- (6) Domestic criminal trespass as defined in G.S. 14-134.3.

(b) A murder other than described in subsection (a) or (a1) of this section or in G.S. 14-23.2 shall be deemed second degree murder. Any person who commits second degree murder shall be punished as a Class B1 felon, except that a person who commits second degree murder shall be punished as a Class B2 felon ~~in either of the following circumstances:~~

- ~~(1)~~ ~~The if the~~ malice necessary to prove second degree murder is based on an inherently dangerous act or omission, done in such a reckless and wanton manner as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief.



- (2) ~~The murder is one that was proximately caused by the unlawful distribution of any opium, opiate, or opioid; any synthetic or natural salt, compound, derivative, or preparation of opium, or opiate, or opioid; cocaine or other substance described in G.S. 90-90(1)d.; methamphetamine; or a depressant described in G.S. 90-92(a)(1), and the ingestion of such substance caused the death of the user.~~

...."

SECTION 2. G.S. 14-18.4 reads as rewritten:

"§ 14-18.4. Death by distribution of certain controlled substances; aggravated death by distribution of certain controlled substances; penalties.

...

(a1) Death by Distribution Through Unlawful Delivery of Certain Controlled Substances.
– A person is guilty of death by distribution through unlawful delivery of certain controlled substances if all of the following requirements are met:

- (1) The person unlawfully delivers at least one certain controlled substance.
- (2) The ingestion of the certain controlled substance or substances causes the death of the user.
- (3) The commission of the offense in subdivision (1) of this subsection was the proximate cause of the victim's death.

(a2) Death by Distribution Through Unlawful Delivery with Malice of Certain Controlled Substances. – A person is guilty of death by distribution through unlawful delivery with malice of certain controlled substances if all of the following requirements are met:

- (1) The person unlawfully delivers at least one certain controlled substance.
- (2) The person acted with malice.
- (3) The ingestion of the certain controlled substance or substances causes the death of the user.
- (4) The commission of the offense in subdivision (1) of this subsection was the proximate cause of the victim's death.

(b) Death by Distribution Through Unlawful Sale of Certain Controlled Substances. – A person is guilty of death by distribution through unlawful sale of certain controlled substances if all of the following requirements are met:

- (1) The person unlawfully sells at least one certain controlled substance.
- (2) The ingestion of the certain controlled substance or substances causes the death of the user.
- (3) The commission of the offense in subdivision (1) of this subsection was the proximate cause of the victim's death.
- (4) ~~The person did not act with malice.~~

(c) Aggravated Death by Distribution Through Unlawful Sale of Certain Controlled Substances. – A person is guilty of aggravated death by distribution through unlawful sale of certain controlled substances if all of the following requirements are met:

- (1) The person unlawfully sells at least one certain controlled substance.
- (2) The ingestion of the certain controlled substance or substances causes the death of the user.
- (3) The commission of the offense in subdivision (1) of this subsection was the proximate cause of the victim's death.
- (4) ~~The person did not act with malice.~~
- (5) The person has a previous conviction under this section, G.S. 90-95(a)(1), 90-95.1, 90-95.4, 90-95.6, or trafficking in violation of G.S. 90-95(h), or a prior conviction in any federal or state court in the United States that is substantially similar to an offense listed, within ~~seven~~ ten years of the date of the offense. In calculating the ~~seven-year~~ ten-year period under this

subdivision, any period of time during which the person was incarcerated in a local, state, or federal detention center, jail, or prison shall be excluded.

...

(e) Lesser Included Offense. – Death by distribution through unlawful sale of certain controlled substances constitutes a lesser included offense of aggravated death by distribution through unlawful sale of certain controlled substances in violation of this section.

...

(h) Penalties. – Unless the conduct is covered under some other provision of law providing greater punishment, the following classifications apply to the offenses set forth in this section:

(1) ~~Death by distribution of certain controlled substances~~ A violation of subsection (a1) of this section is a Class C felony.

(1a) A violation of subsection (a2) or (b) of this section is a Class C-B2 felony.

(2) ~~Aggravated death by distribution of certain controlled substances~~ A violation of subsection (c) of this section is a Class B2-B1 felony."

SECTION 3. This act becomes effective December 1, 2023, and applies to offenses committed on or after that date.