

H474: “Death by Distribution” could increase overdose deaths and wastes resources by targeting friends and family members of overdose victims.

- NOTE: H474 passed Senate [6/26/19](#), Calendared for House Concurrence [6/27/19](#)

According to evidence from other states, H474 could discourage people from calling 911 for medical help, leading to more overdose deaths. People who have lost family members to drug overdoses criticized the bill over the fear people won't call 911 for help. Evidence from other states shows the majority of people prosecuted under this type of law were friends or family also suffering from addiction. Harsher penalties don't reduce harms; similar laws put in place during the “war on drugs” did little to combat rates of drug addiction and overdoses. Existing law is sufficient to prosecute people for deaths resulting from knowing distribution of a dangerous substance. North Carolina courts have found sufficient evidence of malice in several cases where the defendant distributed drugs knowing that they were very dangerous.

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According to ACLU, H474 could discourage people from calling 911 leading to fewer reportings and more deaths. “HB 474/ SB 375 imposes harsher penalties for those who supply drugs that lead to an overdose. This bill would charge people with “death by distribution”, a criminal charge that would be similar to voluntary manslaughter or second-degree murder but would not require prosecutors to prove intent to kill or malice. This bill could discourage people from calling 911 and could undo the protections given under the Good Samaritan Law. The bill's overcriminalization of drug overdoses would lead to less reportings and more deaths.” (ACLU NC, [4/10/19](#))

Evidence from other states shows that this type of law leads to an increase in deaths. “However, there is a bevy of evidence from other states that shows that rather than deterring drug distribution and reducing overdoses, these laws lead to an increase in deaths, incarcerate those struggling with addiction and waste resources that could be used to invest in effective solutions.” (Wilson Times, Op-Ed, [5/8/19](#))

Members of the substance abuse and harm reduction communities say H474 will deter people from calling 911 for medical help due to fear of a murder charge. “Members of the substance abuse recovery and harm reduction communities say this bill will further deter people from calling 911 for medical help when a person is overdosing if they fear a potential second-degree murder charge. Right now, there is a Good Samaritan Law in place that provides legal immunity from drug-related charges if a person calls for medical help for someone who is overdosing. Lawmakers are also [considering a bill](#) this session that would clarify and strengthen Good Samaritan immunity.” (NC Health News, [4/10/19](#))

People who have lost family members to drug overdoses criticized the bill over the fear people won't call 911 for help.

The death by distribution bill faced criticism from people who have lost family members to drug overdoses, fearing people won't be as likely to call 911. “A bill to increase penalties for drug dealers whose product kills a user drew criticism Tuesday from people who've lost family to drugs. They're worried that, if a [“death by distribution” crime](#) is added to state law, people won't be as likely to call 911 when someone overdoses. They said more people would die, and they begged for tighter wording in the bill to keep prosecutors from targeting friends and fellow addicts who so often sell to the end user.” (WRAL, [4/9/19](#))

Evidence from other states shows the majority of people prosecuted under this type of law were friends or family also suffering from addiction.

Wilson Times Op-Ed: “Death by distribution law won’t reduce harm” (Wilson Times, Op-Ed, [5/8/19](#))

Evidence from other states shows that the majority of people who were prosecuted under this type of law were not drug dealers, but were friends or family also suffering from addiction who shared with others. ““But we have evidence from other states that have already passed these bills that shows the majority of the people prosecuted under death by distribution laws have been friends and family members who were addicted themselves and shared with other people,” Castillo said. “The intent to go after the dealer is the exception, not the rule, when these laws are applied.”” (NC Health News, [4/10/19](#))

Death by distribution laws incarcerate people struggling with addiction and wastes resources that could be used to invest in solutions. “However, there is a bevy of evidence from other states that shows that rather than deterring drug distribution and reducing overdoses, these laws lead to an increase in deaths, incarcerate those struggling with addiction and waste resources that could be used to invest in effective solutions.” (Wilson Times, Op-Ed, [5/8/19](#))

Harsher penalties don’t reduce harms; similar laws put in place during the “war on drugs” did little to combat rates of drug addiction and overdoses.

Data show that harsher penalties for drug offenses don’t reduce harms. “These findings are consistent with numerous reports from around the country that show that harsher penalties for drug-related offenses don’t reduce harms, they exacerbate them. These laws also follow a long history of implementing tough legislation as a response to public health issues.” (Wilson Times, Op-Ed, [5/8/19](#))

Death by distribution laws were put in place during the “war on drugs” of the 1980s and 1990s, but rates of drug addiction and overdose continue to rise. “During the ‘80s and ‘90s, the cocaine-related harms that ravaged inner cities were met with swift punishment. In fact, death by distribution laws were put in place during the height of the crack era as a means of dealing with rising rates of overdose, drug addiction and the violence tied to drug markets. Yet drugs are cheaper and more plentiful now than ever before.” (Wilson Times, Op-Ed, [5/8/19](#))

Existing law is sufficient to prosecute people for deaths resulting from knowing distribution of a dangerous substance.

“North Carolina courts have found sufficient evidence of malice in several cases where the defendant distributed the drugs knowing that they were very dangerous.” “For example, in State v. Pritchard, 791 S.E.2d 284, 2016 WL 4091610 (N.C. App. 2016), the court found the following evidence sufficient for a jury to find malice: The defendant had been prescribed morphine previously and the label on the prescription warned him that it was unsafe to take more than one tablet every eight hours. The defendant then provided 10 morphine pills to the victim, whom he knew would likely abuse the substance. The court explained that “[a]lthough this evidence is quite weak, a reasonable juror hearing this evidence could infer that Pritchard knew how dangerous it was to give so many morphine pills to the victim but recklessly disregarded this substantial risk to the victim’s life.”” (ACLU NC, retrieved 6/27/19)

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