

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 612

INTRODUCER: Criminal Justice Committee and Senator Burgess

SUBJECT: Murder

DATE: April 21, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Vaughan	Stokes	CJ	Fav/CS
2. Atchley	Harkness	ACJ	Favorable
3. Vaughan	Siples	FP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 612 amends s. 782.04(5), F.S., to create a new category of third degree murder for individuals younger than 18 who unlawfully distribute a specified substance that is proven to have caused or proven to have been a substantial factor in producing the death of the user.

Substances include:

- A Schedule I controlled substance;
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;
- Methadone;
- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.¹

This new third degree murder category constitutes a second degree felony.

The bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections. See Section V., Fiscal Impact Statement.

¹ Section 782.04(1)(a)3.a.-j., F.S.

The bill takes effect on July 1, 2025.

II. Present Situation:

Nationwide, there has been an increase in young adults being charged as the result of distributing a substance that has caused death of another individual. In 2022, a California District Attorney's office charged a sixteen-year-old with murder for distributing Fentanyl that killed a pre-teen.² The San Bernardino County District Attorney's Office has utilized this charge twice to in recent years amid a spike in teenager overdose deaths in Southern California.³

Murder by Unlawful Distribution of Certain Controlled Substances

Section 782.04(1)(a)3., F.S., provides that first degree murder includes the unlawful killing of a human being which resulted from the unlawful distribution by a person 18 years of age or older of any of the following substances, or a mixture containing any of the following substances, when such substance or mixture is proven to be the *substantial factor* of the death of the user:

- A Schedule I controlled substance;⁴
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;
- Methadone;
- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.

“Substantial factor” means that the use of a substance or mixture alone is sufficient to cause an overdose or serious bodily injury, regardless of whether any other substance or mixture used is also sufficient to cause an overdose or serious bodily injury.⁵

First degree murder is a capital felony,⁶ punishable by death or life imprisonment.⁷

Third Degree Murder – Exclusion of Unlawful Distribution of Certain Controlled Substances

Section 782.04(4), F.S., provides that it is third degree murder, a second degree felony, when an unlawful killing of a human being, was perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate any felony *other than* any

² ABC News, *Mother reacts to murder charge against teen accused in her 12-year-old's fatal overdose*, available at <https://abc7news.com/san-jose-teen-od-death-girl-drug-overdose-fentanyl/11509568/>, (last visited March 18, 2025).

³ Fox News, *California teen charged with murder for providing fentanyl to drug overdose victim*, available at <https://www.foxnews.com/us/california-teen-charged-murder-providing-fentanyl-drug-overdose-victim?msocid=1aa65dbe159a63171107495a14b362c4>, (last visited March 18, 2025).

⁴ Section 893.03(1), F.S., provides a list of controlled substances.

⁵ Section 782.04(5)(a), F.S.

⁶ Section 782.04(1)(a)3., F.S.

⁷ Section 782.082, F.S.

felony listed in subsection (4). This list of excluded felonies includes unlawful distribution by a person 18 years of age or older of any of the following substances when such substance is proven to be the *substantial cause* of the death of the user:

- A Schedule I controlled substance;
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;
- Methadone;
- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.⁸

Currently, persons under 18 years of age are excluded from the capital crime of murder for the unlawful distribution of the above listed substances:

A person less than 18 years of age who distributes such substance and such distribution causes death may be charged with the second degree felony of third degree murder depending on the circumstances.

Capital Felonies

Under current Florida law, the term “capital felony” means a crime for which a person may be sentenced to death or life imprisonment.⁹ Among these crimes are:

- The unlawful killing of a human being:
 - When perpetrated from a premeditated design to effect the death of the person killed or any human being;¹⁰
 - When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any specified offense;¹¹ or
 - Which resulted from the unlawful distribution by a person 18 years of age or older of any specified substances, or mixture containing any specified substance, when such substance or mixture is proven to have caused, or is proven to have been a substantial factor in producing, the death of the user.
- Sexual battery, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age.¹²
- Trafficking in specified controlled substances.¹³

A person under the age of 18 at the time of the offense will receive a sentence of life in prison as specified in s. 775.082(1)(b)1., F.S. If after sentencing the court finds that life imprisonment is

⁸ Section 782.04(4)(l), F.S.

⁹ See Sections 921.141, 921.142, and 921.1425, F.S.

¹⁰ Section 782.04(1)(a)1., F.S.

¹¹ Section 782.04(1)(a)2., F.S.

¹² Section 794.011(2), F.S.

¹³ See s. 893.135, F.S.

not an appropriate sentence, such person shall be punished by a term of imprisonment of at least 40 years.¹⁴

III. Effect of Proposed Changes:

The bill amends s. 782.04(5), F.S., to create a new category of third degree murder for individuals younger than 18 who unlawfully distribute a specified substance that is proven to have caused or proven to have been a substantial factor in producing the death of the user.

Substances include:

- A Schedule I controlled substance;
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;
- Methadone;
- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.¹⁵

This new third degree murder category constitutes a second degree felony, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.

The bill takes effect on July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

¹⁴ Section 775.082(1)(b)1., F.S.

¹⁵ Section 782.04(1)(a)3.a.-j., F.S.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per the DOC, in FY 23-24, there were 19 new commitments to prison under s. 782.04(4), F.S. However, it is not known how many of these commitments were due to the unlawful distribution of specific controlled substances leading to the death of a user.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 782.04 of the Florida Statutes.

¹⁶ Office of Economic and Demographic Research, *SB 612 - Murder*, (on file with the Senate Committee on Criminal Justice).

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 25, 2025:

The committee substitute establishes third degree murder, classified as a second degree felony, for individuals under 18 who distribute a substance proven to have caused or significantly contributed to someone's death.

- B. **Amendments:**

None.