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WHAT ARE DRUG-INDUCED HOMICIDE LAWS?

Drug-induced homicide (DIH) refers to the practice of prosecutors bringing homicide charges against individuals who supply drugs that result in an overdose death.

Drug-induced homicide laws are ineffective, counterproductive, and must end. Drug-induced homicide prosecutions can increase overdose death risk, exacerbate racial disparities, and consume resources without evidence of lifesaving or otherwise improved public health outcomes! They exacerbate the very problem they seek to remediate by discouraging people who use drugs from seeking medical help, and by targeting the friends, families, and peers of people who use drugs. Criminal records are associated with lifelong impacts including difficulty obtaining employment, education, housing opportunities, and public benefits.²

PUNISHMENT, NOT PUBLIC HEALTH, DRIVES DRUG POLICIES

Drug policies in the United States are driven by punishment, not evidence or public health. Each year, there are nearly one million arrests for drug offenses. Of the nearly two million people incarcerated in the U.S., one in five is locked up for a drug offense.³ Elected officials have prioritized criminalizing drug use, all while drug use rates have remained steady and overdose rates have skyrocketed due to an unregulated drug supply.

Amid a decades-long overdose crisis that has claimed over one million lives since its onset, policymakers have chosen to double down on punitive policies, like DIH laws, instead of meaningfully and sufficiently investing in healthcare and addiction services, like overdose prevention centers and evidence-based treatment.

People are understandably looking for ways to curb the overdose crisis. Each death is a tragedy, particularly because overdose deaths are preventable. People use drugs, and our goal should be to keep them safe. We cannot afford to lose more of our family, friends, and community members. Unfortunately, DIH laws are causing more harm to our communities.

THE USE OF DRUG-INDUCED HOMICIDE LAWS HAS RAPIDLY GROWN

Although DIH laws have existed since the 1980s, their usage has rapidly increased since 2011.⁴

- Between 2011 and 2016, DIH charges more than quadrupled, and media mentions of them increased by 300%.⁵
- In 2023 and 2024, 21 states introduced legislation related to DIH.⁶

Currently, 33 states and the District of Columbia have DIH laws on the books.⁷ The federal law, passed in 1986, includes a penalty of 20 years to life for anyone who dispenses a controlled substance that results in serious bodily injury or death.⁸ State penalties include manslaughter, classified felony, reckless homicide, and murder.⁹

RESEARCH SHOWS THAT DRUG-INDUCED HOMICIDE PROSECUTIONS *DO NOT* REDUCE DRUG USE, SALES, OR SHARING

Although legislators and prosecutors have cited drug use and overdose prevention as the primary justification for DIH laws,¹⁰ harsh criminal penalties do not deter or prevent substance use, drug distribution, or fatal overdoses.¹¹

- Research suggests that neither increased arrests nor increased severity of criminal penalties for drug-related offenses have resulted in reduced drug use or sales.¹²
- An analysis conducted by The Pew Charitable Trusts found no relationship between states' incarceration rates for drug offenses and the rates of illicit use and overdose deaths.¹³

DRUG-INDUCED HOMICIDE LAWS TARGET THE VERY INDIVIDUALS THEY CLAIM TO PROTECT: THOSE WHO USE AND SHARE DRUGS IN PEER SETTINGS

Although DIH laws are often justified as tools to target large-scale drug distributors, they most frequently target the friends and family of the person lost.¹⁴ Drug use often occurs in peer settings. People who use drugs often buy and sell through their known and trusted social networks, blurring the distinction between those who use and sell.¹⁵

- A 2021 national study found that 50% of DIH prosecutions were against friends, family, or romantic partners of the deceased, and
- 47% were against individuals who rarely sold drugs or did so in small quantities.¹⁶

Because identifying and proving the direct cause of death can be challenging, prosecutors often focus on the last person to touch the drugs prior to the deceased consuming them.¹⁷ For example, in Illinois, DIH charges were most commonly brought against the last person who was with the deceased.¹⁸

DRUG-INDUCED HOMICIDE LAWS DETER 911 CALLS AND LIFESAVING MEDICAL ASSISTANCE DURING FATAL OVERDOSE EVENTS

DIH prosecutions discourage people who witness overdoses from calling 911 and seeking lifesaving medical assistance. In the event of an overdose, the most common reason people cite for not calling 911 is fear of police involvement.¹⁹ The vast majority of DIH charges are brought against those best positioned to seek medical assistance in the event of an overdose. But DIH prosecutions do nothing to improve overdose responses.

DRUG-INDUCED HOMICIDE LAWS TARGET PEOPLE OF COLOR

People of all races and ethnicities use and sell drugs at similar rates,²⁰ but DIH prosecutions disproportionately target people of color. National data show that Black defendants are more likely to face prosecution for a DIH compared to counterparts of other races.²¹ They also face longer sentences. From 2008 to 2018, the national median DIH sentence for Black defendants was ten years, compared to less than seven years for white defendants.²²

DRUG-INDUCED HOMICIDE LAWS COST TAXPAYER DOLLARS

Not only do DIH laws have a human cost; they also cost taxpayers. The typical length of a DIH sentence is eight years, and the average cost per person per year of incarceration is nearly \$45,000.²³ At the county level, thousands of tax dollars are also spent on DIH investigations.²⁴

By contrast, public health approaches, such as overdose prevention centers (OPCs), have proven effective at reducing overdose fatalities while simultaneously saving taxpayer's money.²⁵ A cost-benefit analysis found that implementing one OPC in San Francisco would result in a net savings of \$3.5 million per year, achieved through averting overdose deaths, decreasing infectious disease transmission, reducing skin and soft tissue infections, and increasing medication for opioid use disorder uptake.²⁶ Money spent on DIH investigations, arrests, and incarcerations could be better spent on public health approaches that we know work to reduce overdose deaths.

REPEAL DRUG-INDUCED HOMICIDE LAWS AND INVEST IN HARM REDUCTION AND PUBLIC HEALTH SOLUTIONS TO THE OVERDOSE CRISIS

Over one million lives have been lost since the onset of the overdose crisis. Drug-induced homicide laws are ineffective, counterproductive, and must end. In order to effectively address the ongoing overdose crisis, DIH laws must be repealed. Lives lost to overdose are best honored by implementing evidence-based solutions – like increased addiction services, drug checking, and overdose prevention centers – that help individuals, families, and communities heal and that prevent additional avoidable deaths.

END NOTES

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