

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 Criminal Justice

BILL: SB 612

INTRODUCER: Senator Burgess

SUBJECT: Murder

DATE: March 24, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Vaughan	Stokes	CJ	Pre-meeting
2. _____	_____	ACJ	_____
3. _____	_____	FP	_____

I. Summary:

SB 612 amends s. 782.04(4)(l), F.S., to revise one of the exceptions to the second degree felony of third degree murder.

Current law provides the unlawful killing of a human being, when perpetrated without design to effect death, by a person engaged in the perpetration of, or attempt to perpetrate, any felony other than specified felonies is third degree murder.

One felony offense that is an exception to third degree murder is the unlawful distribution of specified substances by a person 18 or older when such substance is proven to have caused, or is proven to have been a substantial factor in producing the death of the user.

The bill removes the requirement that a person must be 18 years of age or older from this exception.

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.*

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.¹

¹ 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).

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.²

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;³
- 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.⁴

First degree murder is a capital felony,⁵ punishable by death or life imprisonment.⁶

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 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;

² 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).

³ Section 893.03(1), F.S., provides a list of controlled substances.

⁴ Section 782.04(5)(a), F.S.

⁵ Section 782.04(1)(a)3., F.S.

⁶ Section 782.082, F.S.

- Fentanyl;
- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.⁷

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.⁸ 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;⁹
 - When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any specified offense;¹⁰ 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.¹¹
- Trafficking in specified controlled substances.¹²

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 not an appropriate sentence, such person shall be punished by a term of imprisonment of at least 40 years.¹³

III. Effect of Proposed Changes:

The bill amends s. 782.04(4)(l), F.S., to revise one of the exceptions to the second degree felony of third degree murder.

⁷ Section 782.04(4)(l), F.S.

⁸ See Sections 921.141, 921.142, and 921.1425, F.S.

⁹ Section 782.04(1)(a)1., F.S.

¹⁰ Section 782.04(1)(a)2., F.S.

¹¹ Section 794.011(2), F.S.

¹² See s. 893.135, F.S.

¹³ Section 775.082(1)(b)1., F.S.

Current law provides the unlawful killing of a human being, when perpetrated without design to effect death, by a person engaged in the perpetration of, or attempt to perpetrate, any felony other than specified felonies is third degree murder.

One felony offense that is an exception to third degree murder is the unlawful distribution of specified substances by a person 18 or older when such substance is proven to have caused, or is proven to have been a substantial factor in producing the death of the user.

The bill removes the requirement that a person must be 18 years of age or older from this exception.

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.

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.¹⁴

VI. Technical Deficiencies:

The bill does not remove the age requirement for capital offense, but removes the requirement from the exception to third degree murder.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 782.04

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁴ Office of Economic and Demographic Research, *SB 612 - Murder*, (on file with the Senate Committee on Criminal Justice).