

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2766**

BY DELEGATE MANDT

[Introduced February 25, 2021; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §60A-4-416 of the Code of West Virginia, 1931, as amended,  
2 relating to creating a felony crime of delivery of a controlled substance or a counterfeit  
3 controlled substance with reckless disregard for the health, safety, and welfare of others,  
4 for an illicit purpose, and the use, ingestion, consumption, or exposure thereof causes  
5 death.

*Be it enacted by the Legislature of West Virginia:*

#### **ARTICLE 4. OFFENSES AND PENALTIES.**

##### **§60A-4-416. Drug delivery resulting in death; failure to render aid.**

1 (a) Any person who knowingly and willfully delivers a controlled substance or counterfeit  
2 controlled substance in violation of the provisions of §60A-4-401 of this chapter for an illicit  
3 purpose and the use, ingestion or consumption of the controlled substance or counterfeit  
4 controlled substance alone or in combination with one or more other controlled substances,  
5 proximately causes the death of a person using, ingesting or consuming the controlled substance,  
6 is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility  
7 for a determinate sentence of not less than three nor more than 15 years.

8 (b) Any person who delivers a controlled substance or counterfeit controlled substance  
9 with reckless disregard for the health, safety, and welfare of others, in violation of the provisions  
10 of §60A-4-401 of this code for an illicit purpose and the use, ingestion, consumption, or exposure  
11 to the controlled substance or counterfeit controlled substance alone or in combination with one  
12 or more other controlled substances, proximately causes the death of a person using, ingesting,  
13 consuming, or exposed to the controlled substance, is guilty of a felony and, upon conviction  
14 thereof, shall be confined in a state correctional facility for a determinate sentence of not less than  
15 one nor more than three years.

16 ~~(b)~~(c) Any person who, while engaged in the illegal use of a controlled substance with  
17 another, who knowingly fails to seek medical assistance for such other person when the other  
18 person suffers an overdose of the controlled substance or suffers a significant adverse physical

19 reaction to the controlled substance and the overdose or adverse physical reaction proximately  
20 causes the death of the other person, is guilty of a felony and, upon conviction thereof, shall be  
21 confined for not less than one year nor more than five years.

NOTE: The purpose of this bill is to create a felony crime of negligence and with a reckless disregard of the safety of others, delivering a controlled substance or counterfeit controlled substance for an illicit purpose and the use thereof causes a death.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.