

## Criminal Laws on Encouraging Suicide

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August 14, 2020 | 2020-R-0197

### Issue

Briefly summarize laws that specifically make it a crime to encourage someone to commit suicide.

### Summary

Current Connecticut law does not directly address “encouraging” suicide, and we were unable to find Connecticut bills from any legislative session that would criminalize it. But Connecticut law does criminalize “causing” suicide. Specifically:

1. intentionally causing a person to commit suicide by force, duress, or deception is classified as murder ([CGS § 53a-54a](#)) and
2. intentionally causing or aiding a person, other than by force, duress, or deception, to commit suicide is classified as 2<sup>nd</sup> degree manslaughter ([CGS § 53a-56](#)).

A small number of other states have statutes that specifically address encouraging suicide. Four of these states’ laws are described below (California, Minnesota, Oklahoma, and South Dakota). Minnesota’s law, however, was struck down by its state Supreme Court as an infringement on free speech rights under the First Amendment. In addition, California’s courts have held that criminal liability for “encouraging” suicide requires something more direct than just words encouraging the act.

In addition to these laws, in a high-profile Massachusetts case involving encouraging suicide through text messages, a teen girl was found guilty of involuntary manslaughter as a youthful offender in connection with her boyfriend’s suicide. As summarized in the state [court decision](#) upholding her conviction, in a series of text messages with her boyfriend, “the defendant

encouraged the victim to kill himself, instructed him as to when and how he should kill himself, assuaged his concerns over killing himself, and chastised him when he delayed doing so.” She was found guilty under the legal theory that her actions amounted to “wanton or reckless conduct” which caused the victim’s death (*Commonwealth v. Carter*, 474 Mass. 624 (2016)). She later sought review in the U.S. Supreme Court, alleging that her conviction violated her First Amendment rights, but the Court declined to hear her appeal ([U.S. Supreme Court orders](#), January 13, 2020, page 4). Earlier this year, she was released from prison, having served part of her 15-month sentence and earning time off her sentence for good behavior.

## Examples of Criminal Laws on Encouraging Suicide

### *California*

In California, it is a felony to deliberately aid, advise, or encourage another person to commit suicide ([Cal. Penal Code § 401](#)). (A recent amendment to this law, effective January 1, 2019, specified that this crime does not apply to actions in compliance with the state’s “[End of Life Option Act](#).”)

In a 2015 case, the California Appellate Court described this law on encouraging suicide as follows:

Although section 401 appears to criminalize simply giving advice or encouragement, “the courts have . . . required something more than mere verbal solicitation of another person to commit a hypothetical act of suicide . . . . [T]he courts have interpreted the statute as proscribing ‘the direct aiding and abetting of a specific suicidal act. . . . Some active and intentional participation in the events leading to the suicide are required in order to establish a violation.’ Thus, . . . to prove a violation of section 401 it is necessary to establish all of the following essential elements: (1) the defendant specifically intended the victim's suicide; (2) the defendant undertook some active and direct participation in bringing about the suicide, such as by furnishing the victim with the means of suicide; and, finally, (3) the victim actually committed a specific, overt act of suicide” (*Donorovich-Odonnell v. Harris*, 241 Cal. App. 4<sup>th</sup> 1118, 1127-28 (2015)).

### *Minnesota*

A Minnesota statute makes it a crime for someone to intentionally advise, encourage, or assist another person in taking their own life or attempting to take their own life ([Minn. Stat. § 609.215](#)).

But in 2014, the state’s Supreme Court held that the prohibition on “advising or encouraging” another in committing suicide was an unconstitutionally overbroad, content-based restriction on

speech. The court held that these terms were stricken from the statute (*State v. Melchert-Dinkel*, 844 N.W. 2d 13 (2014)).

The case involved a man who, while posing as a suicidal young female nurse, responded to posts by two individuals on suicide-related websites. According to the court, “[i]n each case, he feigned caring and understanding to win the trust of the victims while encouraging each to hang themselves, falsely claiming that he would also commit suicide, and attempting to persuade them to let him watch the hangings via webcam.” Both individuals committed suicide. The court held that the state could prosecute the defendant for assisting suicide, but not for encouraging or advising suicide. He was later convicted for assisting suicide.

The court concluded that because suicide itself was no longer classified as a crime in Minnesota, “advising or encouraging” suicide did not fall within the “speech integral to criminal conduct” exception to First Amendment protection. The court also concluded that, although the state had a compelling interest in preserving life, the prohibition on “advising or encouraging” suicide was not narrowly drawn to serve that interest, and thus was unconstitutional.

### ***Oklahoma***

Under Oklahoma law, it is a crime to willfully, in any manner, advise, encourage, abet, or assist another person in taking his or her own life (i.e., “aiding suicide”) ([21 Okla. Stat. § 813](#)). Willfully aiding another person to attempt to commit suicide in any manner described above is also a crime under Oklahoma law ([21 Okla. Stat. § 815](#)).

### ***South Dakota***

In South Dakota, it is a felony to intentionally in any manner advise, encourage, abet, or assist another person in taking or in attempting to take his or her own life ([S.D. Codified Laws § 22-16-37](#)).

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