

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2248

Introduced by

Senators Hogue, Larson, Luick

Representatives Klemin, Louser

1 A BILL for an Act to create and enact a new section to chapter 19-03.1 and section 19-03.1-23.6
2 of the North Dakota Century Code, relating to a special penalty for death or injury through
3 distribution of illegal drugs and fentanyl reporting; to provide a penalty; and to provide an
4 appropriation.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 19-03.1 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Distribution of illegal drugs - Special penalty for death or injury.**

9 **1. As used in this section:**

- 10 a. "Consume" means to inject, ingest, or inhale a controlled substance.
- 11 b. "Controlled substance" includes derivatives or analogs to a scheduled controlled
12 substance.
- 13 c. "Injury" means an overdose that puts an individual's life at immediate risk.
- 14 d. "Supplies" includes delivering, supplying, directing, or willfully assisting another to
15 supply or deliver a controlled substance.
- 16 **2. An individual is guilty of causing death or injury by distributing a controlled substance if**
17 **the individual willfully supplies another to deliver a controlled substance to an**
18 **individual who consumes the controlled substance and that individual dies or is injured**
19 **from overdosing after consuming a portion of the controlled substance.**
- 20 a. A violation of this section is a class A felony.
- 21 b. This section does not limit a conviction under chapter 12.1-16, but an individual
22 may not be found guilty of this section and an offense under chapter 12.1-16 if
23 the conduct arises out of the same course of conduct.

- 1 3. Venue for an offense under this section is in the county where the death or injury
2 occurred or any county where the controlled substance was directly or
3 indirectly obtained by the deceased or injured individual.
- 4 a. An individual may not be convicted in more than one county for the death or
5 injury of the same individual who overdosed on a controlled substance.
- 6 b. Notwithstanding chapter 29-03, an individual outside the state may be
7 prosecuted within the state under this section.
- 8 c. The charging document for a violation of this section must list an overt act in
9 which the individual engaged to violate this section.
- 10 d. Injury or death by an overdose may be proven by direct or circumstantial
11 evidence.
- 12 4. An individual may not be charged under this section if the individual supplied or
13 administered a controlled substance as part of a medical procedure or the individual
14 was in a lawful position to dispense a medication prescription.
- 15 a. An individual may not be charged under this section if the individual complied
16 with section 19-3.1-23.4.
- 17 b. It is not a defense to this section that the deceased or injured individual had other
18 controlled substances or alcohol in the individual's system which the defendant
19 did not supply at the time of an overdose.

20 **SECTION 2.** Section 19-03.1-23.6 of the North Dakota Century Code is created and
21 enacted as follows:

22 **19-03.1-23.6. Fentanyl reporting - Report to legislative management.**

- 23 1. As used in this section:
- 24 a. "Health care provider" means a person licensed or certified by the state to
25 provide health care services. The term includes emergency service personnel, a
26 medical hospital, and a medical clinic.
- 27 b. "Law enforcement agency" means a nonfederal public agency authorized by law
28 or by a government agency or branch to enforce the law and to conduct or
29 engage in investigations or prosecutions for violations of law. The term includes a
30 multijurisdictional task force.

- 1 2. Annually, a law enforcement agency and a health care provider shall provide to the
2 attorney general a completed case report form for every death the agency or the
3 provider encounters which is caused by, suspected to have been caused by, or is
4 related to fentanyl consumption.
- 5 a. The data and report compiled under this section are open records.
6 b. The attorney general may require the reporting of additional information not
7 specified in this section. The attorney general shall develop standard forms,
8 processes, and deadlines for annual submission of fentanyl data by law
9 enforcement agencies and health care providers.
- 10 c. If a law enforcement agency or health care provider fails to file a report within
11 thirty days after the report is due, the attorney general may compel compliance
12 by any means until the report is filed.
- 13 d. By November first of each year, the attorney general shall submit to the
14 legislative management and the governor a written report summarizing the
15 number of deaths that occurred in the state caused by or related to fentanyl
16 consumption during the preceding calendar year. The attorney general shall
17 make the report available on the attorney general's website.

18 **SECTION 3. APPROPRIATION - ATTORNEY GENERAL - FENTANYL AWARENESS**

19 **EXPANSION.** There is appropriated out of any moneys from opioid-related lawsuit settlement
20 proceeds, not otherwise appropriated, the sum of \$1,500,000, or so much of the sum as may be
21 necessary, to the attorney general for the purpose of providing and expanding statewide
22 awareness of the fentanyl drug and overdose epidemic, for the biennium beginning July 1,
23 2023, and ending June 30, 2025.