

**SECOND ENGROSSMENT
with House Amendments
REENGROSSED 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
2 19-03.1-23.6 of the North Dakota Century Code, relating to a special penalty for death or injury
3 through distribution of illegal drugs, and fentanyl reporting; to amend and reenact section
4 19-03.1-23.4 of the North Dakota Century Code, relating to overdose prevention and immunity;
5 to provide a penalty; and to provide an appropriation.

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

7 **SECTION 1. AMENDMENT.** Section 19-03.1-23.4 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **19-03.1-23.4. Overdose prevention and immunity.**

10 An individual is immune from criminal prosecution under sections 19-03.1-22.1,
11 19-03.1-22.3, and 19-03.1-22.5, subsection 7 of section 19-03.1-23, section 2 of this Act,
12 subsection 3 of section 19-03.2-03, and section 19-03.4-03 if in good faith that individual seeks
13 medical assistance for another individual in need of emergency medical assistance due to a
14 drug overdose. To receive immunity under this section, the individual receiving immunity must
15 have remained on the scene until assistance arrived, cooperated with the medical treatment of
16 the reported drug overdosed individual, and the overdosed individual must have been in a
17 condition a layperson would reasonably believe to be a drug overdose requiring immediate
18 medical assistance. Neither the individual who experiences a drug-related overdose and is in
19 need of emergency medical assistance nor the cooperating individual seeking medical
20 assistance may be charged or prosecuted for the criminal offenses listed in this section or for
21 the sharing of controlled substances among those present. Immunity from prosecution under
22 this section does not apply unless the evidence for the charge or prosecution was obtained as a
23 result of the drug-related overdose and the need for emergency medical assistance. Good faith

1 does not include seeking medical assistance during the course of the execution of an arrest
2 warrant or search warrant or during a lawful search.

3 **SECTION 2.** A new section to chapter 19-03.1 of the North Dakota Century Code is created
4 and enacted as follows:

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

6 1. As used in this section:

7 a. "Consume" means to inject, ingest, or inhale a controlled substance.

8 b. "Controlled substance" includes derivatives or analogs to a scheduled controlled
9 substance.

10 c. "Injury" means an overdose that puts an individual's life at immediate risk.

11 d. "Supplies" includes delivering, supplying, directing, or willfully assisting another to
12 supply or deliver a controlled substance.

13 2. An individual is guilty of causing death or injury by distributing a controlled substance if
14 the individual willfully delivers a controlled substance, or supplies another to deliver or
15 consume a controlled substance, and an individual dies or is injured from overdosing
16 after consuming a portion of that controlled substance.

17 a. A violation of this section is a class A felony.

18 b. This section does not limit a conviction under chapter 12.1-16, but an individual
19 may not be found guilty of this section and an offense under chapter 12.1-16 if
20 the conduct arises out of the same course of conduct.

21 3. Venue for an offense under this section is in the county where the death or injury
22 occurred or any county where the controlled substance was directly or
23 indirectly obtained by the deceased or injured individual.

24 a. An individual may not be convicted in more than one county for the death or
25 injury of the same individual who overdosed on a controlled substance.

26 b. Notwithstanding chapter 29-03, an individual outside the state may be
27 prosecuted within the state under this section.

28 c. The charging document for a violation of this section must list an overt act in
29 which the individual engaged to violate this section.

30 d. Injury or death by an overdose may be proven by direct or circumstantial
31 evidence.

- 1 4. An individual may not be charged under this section if the individual supplied or
2 administered a controlled substance as part of a medical procedure or the individual
3 was in a lawful position to dispense a medication prescription.
- 4 a. An individual may not be charged under this section if the individual complied
5 with section 19-3.1-23.4.
- 6 b. It is not a defense to this section that the deceased or injured individual had other
7 controlled substances or alcohol in the individual's system which the defendant
8 did not supply at the time of an overdose.

9 **SECTION 3.** Section 19-03.1-23.6 of the North Dakota Century Code is created and
10 enacted as follows:

11 **19-03.1-23.6. Fentanyl reporting - Report to legislative management.**

12 By November first of each year, the department of health and human services shall submit
13 to the legislative management and the governor a written report summarizing the number of
14 deaths that occurred in the state caused by or related to fentanyl consumption during the
15 preceding calendar year.

16 **SECTION 4. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
17 **FENTANYL AWARENESS EXPANSION.** There is appropriated out of any moneys from the
18 opioid settlement fund, not otherwise appropriated, the sum of \$1,500,000, or so much of the
19 sum as may be necessary, to the department of health and human services for the purpose of
20 providing and expanding statewide awareness of the fentanyl drug and overdose epidemic, for
21 the biennium beginning July 1, 2023, and ending June 30, 2025.