

**SECOND ENGROSSMENT
with Conference Committee 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 provide a statement of legislative
4 intent regarding fentanyl awareness expansion; and to provide a penalty.

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 - Fentanyl**
23 **awareness campaign.**

- 24 1. By November first of each year, the department of health and human services shall
25 submit to the legislative management and the governor a written report summarizing
26 the number of deaths that occurred in the state caused by or related to fentanyl
27 consumption during the preceding calendar year, including the county in which the
28 deaths occurred and the age and gender of the deceased individuals.
- 29 2. The department of health and human services shall make the data reported under
30 subsection 1 available to the public by:

- 1 a. Making the information easily accessible on the department's government
2 website;
3 b. Publishing easily comprehensible printed materials on fentanyl awareness,
4 information, and resources;
5 c. Placing visible billboards in high-traffic areas to inform the public of the dangers
6 of fentanyl; and
7 d. Developing a media and social media campaign to expand statewide awareness
8 of fentanyl drug deaths and the fentanyl overdose epidemic occurring within the
9 state.

10 **SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - FENTANYL**

11 **AWARENESS EXPANSION.** Best practices relating to fentanyl drug overdose by the
12 department of health and human services as provided in section 3 of House Bill No. 1447, as
13 approved by the sixty-eighth legislative assembly, includes providing and expanding statewide
14 awareness of fentanyl drug deaths and the fentanyl overdose epidemic, communication
15 strategies and campaigns, access to naloxone, and other strategies as provided under
16 section 2 of this Act, for the biennium beginning July 1, 2023, and ending June 30, 2025.