

117TH CONGRESS
2D SESSION

S. 4782

To combat the fentanyl crisis.

IN THE SENATE OF THE UNITED STATES

AUGUST 4, 2022

Mr. SCOTT of Florida introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To combat the fentanyl crisis.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Streamlining Text for
5 Official Policy by Formulating Effective Needed Tools to
6 Address Narcotics, Yearly Loss of life and Protect Ameri-
7 cans from Chemical Killers and Against Gangs Effectively
8 Act” or the “STOP FENTANYL PACKAGE”.

9 **SEC. 2. LIABILITY PROTECTIONS FOR OPIOID OVERDOSE**

10 **REVERSAL DRUGS.**

11 (a) DEFINITIONS.—In this section:

1 (1) FIRST RESPONDER.—The term “first re-
2 sponder” means—

3 (A) a first responder as defined in section
4 3025 of the Omnibus Crime Control and Safe
5 Streets Act of 1968 (34 U.S.C. 10705); or

6 (B) a special agent or task force officer of
7 the Drug Enforcement Administration.

8 (2) HEALTH CARE PROVIDER.—The term
9 “health care provider” has the meaning given such
10 term in section 101 of the Family and Medical
11 Leave Act of 1993 (29 U.S.C. 2611).

12 (3) LAY ADMINISTRATOR.—The term “lay ad-
13 ministrator”—

14 (A) means—

15 (i) an individual at risk of undergoing
16 an opioid-related overdose;

17 (ii) an individual in a position to as-
18 sist an individual at risk of undergoing an
19 opioid-related overdose, including a family
20 member or friend of such an individual at
21 risk; or

22 (iii) an employee or volunteer of a
23 community-based organization; and

24 (B) excludes a first responder as defined in
25 paragraph (1).

1 (4) OPIOID OVERDOSE REVERSAL DRUG.—The
2 term “opioid overdose reversal drug” means a drug
3 approved under section 505 of the Federal Food,
4 Drug, and Cosmetic Act (21 U.S.C. 355) that is de-
5 signed to rapidly reverse the effects of an opioid-re-
6 lated overdose.

7 (b) HEALTH CARE PROVIDERS.—

8 (1) AUTHORITY.—

9 (A) IN GENERAL.—A health care provider,
10 engaged in or affecting interstate or foreign
11 commerce, may, subject to subparagraphs (B)
12 and (C), prescribe, dispense, or distribute an
13 opioid overdose reversal drug to—

14 (i) an individual at risk of undergoing
15 an opioid-related overdose; or

16 (ii) an individual who is in a position
17 to assist an individual at such risk, includ-
18 ing a family member or friend of such an
19 individual at risk.

20 (B) EDUCATION AND TRAINING REQUIRE-
21 MENTS.—Upon prescribing, dispensing, or dis-
22 tributing an opioid overdose reversal drug to
23 any individual as described in subparagraph
24 (A), a health care provider (or designated staff
25 of such provider) shall provide to that indi-

1 vidual (or, with respect an individual described
2 in subparagraph (A)(i), a family member or
3 caregiver of such individual as the health care
4 provider determines appropriate) education and
5 training that includes information on—

6 (i) the importance of seeking medical
7 care for the individual undergoing the
8 opioid-related overdose immediately after
9 the drug is administered;

10 (ii) how to access substance use dis-
11 order treatment services;

12 (iii) how the opioid overdose reversal
13 drug operates to stop an opioid-related
14 overdose;

15 (iv) when the administration of the
16 opioid overdose reversal drug is medically
17 indicated;

18 (v) how to properly administer the
19 opioid overdose reversal drug and cir-
20 cumstances under which administration of
21 the opioid overdose reversal drug is contra-
22 indicated;

23 (vi) precautions, warnings, and poten-
24 tial reactions with respect to the opioid
25 overdose reversal drug;

1 (vii) techniques on how to recognize
2 symptoms of an opioid-related overdose;

3 (viii) standards and procedures for the
4 storage of the drug;

5 (ix) proper disposal of expired opioid
6 overdose reversal drugs; and

7 (x) emergency follow-up procedures.

8 (C) RECORDS.—A health care provider
9 shall maintain a record of each individual to
10 whom the health care provider (or designated
11 staff) has provided the education and training
12 under subparagraph (B). Each such record
13 shall be maintained for a period of 2 years be-
14 ginning on the date on which the health care
15 provider (or designated staff) provides the edu-
16 cation and training.

17 (2) LIABILITY.—

18 (A) IN GENERAL.—A health care provider,
19 engaged in or affecting interstate or foreign
20 commerce, shall be immune from civil liability,
21 criminal prosecution, or disciplinary or other
22 adverse action under any professional licensing
23 statute for any outcomes resulting from—

24 (i) an action taken by the provider
25 that is authorized under paragraph (1); or

1 (ii) the administration by a person
2 other than the health care provider of the
3 opioid overdose reversal drug to an indi-
4 vidual regardless of whether that individual
5 is the person to whom the provider pre-
6 scribed the drug.

7 (B) EXCEPTION.—Subparagraph (A) shall
8 not apply in the case that personal injury re-
9 sults from the gross negligence or willful or
10 wanton misconduct of the health care provider.

11 (c) FIRST RESPONDERS.—

12 (1) AUTHORITY.—

13 (A) IN GENERAL.—A first responder, en-
14 gaged in or affecting interstate or foreign com-
15 merce, may, subject to subparagraphs (B) and
16 (C), receive a prescription or supply allocation
17 for an opioid overdose reversal drug (including
18 through a standing order), maintain the drug in
19 the possession of the first responder, administer
20 the drug to any individual who is undergoing or
21 whom the responder believes is undergoing an
22 opioid-related overdose, or distribute the drug
23 to an individual described in clause (i) or (ii) of
24 subsection (b)(1)(A).

1 (B) EDUCATION AND TRAINING REQUIRE-
2 MENTS.—

3 (i) IN GENERAL.—Prior to receiving a
4 prescription or supply allocation for an
5 opioid overdose reversal drug as described
6 in subparagraph (A), a first responder
7 shall—

8 (I) complete the education and
9 training provided by a health care
10 provider (or designated staff) under
11 subsection (b)(1)(B); or

12 (II) review the Opioid Overdose
13 Prevention Toolkit published by the
14 Substance Abuse and Mental Health
15 Services Administration (or a suc-
16 cessor publication), or a substantially
17 similar publication from the applicable
18 State public health agency.

19 (ii) RENEWALS.—The requirement
20 under clause (i) to complete the education
21 and training or review the toolkit described
22 in such clause shall be completed not less
23 than once every 2 years.

24 (C) RECORDS.—A first responder shall
25 maintain—

1 (i) a record of each instance in which
 2 the first responder administers or distrib-
 3 utes an opioid overdose reversal drug in
 4 accordance with subparagraph (A) for a
 5 period of 2 years beginning on the date on
 6 which the first responder administers or
 7 distributes the drug; and

8 (ii) verification that the first re-
 9 sponder has complied with the require-
 10 ments under subparagraph (B) for a pe-
 11 riod of 2 years following each completion
 12 or review described in such subparagraph.

13 (2) LIABILITY.—

14 (A) IN GENERAL.—A first responder who
 15 takes any action authorized under paragraph
 16 (1) shall be immune from civil liability, criminal
 17 prosecution, or disciplinary or other adverse ac-
 18 tion under any professional licensing statute for
 19 any outcomes resulting from such action.

20 (B) EXCEPTION.—Subparagraph (A) shall
 21 not apply in the case that personal injury re-
 22 sults from the gross negligence or willful or
 23 wanton misconduct of the first responder.

24 (d) LAY ADMINISTRATORS.—

25 (1) AUTHORITY.—

1 (A) IN GENERAL.—A lay administrator,
2 engaged in or affecting interstate or foreign
3 commerce, may, subject to subparagraphs (B)
4 and (C), receive a prescription for an opioid
5 overdose reversal drug (including through a
6 standing order), maintain the drug in the pos-
7 session of the lay administrator, and administer
8 the drug to—

9 (i) in the case of a lay administrator
10 described in subsection (a)(3)(A)(i), the lay
11 administrator;

12 (ii) in the case of a lay administrator
13 described in subsection (a)(3)(A)(ii), the
14 individual at risk described in such sub-
15 section; or

16 (iii) in the case of a lay administrator
17 described in subsection (a)(3)(A)(iii), any
18 individual who is undergoing, or who is be-
19 lieved to be undergoing an opioid-related
20 overdose, and is being served through the
21 organization described in such subsection.

22 (B) EDUCATION AND TRAINING REQUIRE-
23 MENTS.—

24 (i) IN GENERAL.—Prior to receiving a
25 prescription for an opioid overdose reversal

1 drug as described in subparagraph (A), a
2 lay administrator shall—

3 (I) complete the education and
4 training provided by a health care
5 provider (or designated staff) under
6 subsection (b)(1)(B); or

7 (II) review the Opioid Overdose
8 Prevention Toolkit published by the
9 Substance Abuse and Mental Health
10 Services Administration (or a suc-
11 cessor publication), or a substantially
12 similar publication from the applicable
13 State public health agency.

14 (ii) RENEWALS.—The requirement
15 under clause (i) to complete the education
16 and training or review the toolkit described
17 in such clause shall be completed not less
18 than once every 2 years.

19 (C) RECORDS.—A lay administrator shall
20 maintain verification that the lay administrator
21 has complied with the requirements under sub-
22 paragraph (B) for a period of 2 years following
23 each completion or review described in such
24 subparagraph.

25 (2) LIABILITY.—

1 (A) IN GENERAL.—A lay administrator
2 who takes any action authorized under para-
3 graph (1) shall be immune from civil liability,
4 criminal prosecution, or disciplinary or other
5 adverse action under any professional licensing
6 statute (including any penalties for the unau-
7 thorized practice of medicine) for any outcomes
8 resulting from such action.

9 (B) EXCEPTION.—Subparagraph (A) shall
10 not apply in the case that personal injury re-
11 sults from the gross negligence or willful or
12 wanton misconduct of the lay administrator.

13 (3) SENSE OF CONGRESS.—It is the sense of
14 Congress that a lay administrator should—

15 (A) call 9–1–1 immediately following ad-
16 ministering an opioid overdose reversal drug to
17 an individual as described in paragraph (1)(A);
18 and

19 (B) report to a first responder—

20 (i) the name, address, and phone
21 number of any individual for whom the
22 opioid overdose reversal drug was adminis-
23 tered as described in such paragraph; and

1 (ii) the status as an injection or spray
2 of the opioid overdose reversal drug used
3 in such administration.

4 (e) PREEMPTION.—This section shall preempt any
5 State law that conflicts with the authorities and protec-
6 tions provided under this section, except in the case of a
7 State law that provides greater protection from liability
8 than the protection provided under this section.

9 (f) SUNSET.—This section shall cease to have any
10 force or effect on the date that is 90 days after the last
11 day of the public health emergency declared by the Sec-
12 retary of Health and Human Services under section 319
13 of the Public Health Service Act (42 U.S.C. 247d) with
14 respect to the opioid crisis, including any renewal of such
15 emergency.

16 **SEC. 3. ACCURATE DATA ON OPIOID-RELATED OVERDOSES.**

17 The Secretary of Health and Human Services and the
18 Attorney General may award grants to States, territories,
19 and localities to support improved data and surveillance
20 on opioid-related overdoses, including for activities to im-
21 prove postmortem toxicology testing, data linkage across
22 data systems throughout the United States, electronic
23 death reporting, or the comprehensiveness of data on fatal
24 and nonfatal opioid-related overdoses.

1 **SEC. 4. LAW ENFORCEMENT GRANTS.**

2 (a) IN GENERAL.—The Attorney General shall make
3 grants to local law enforcement agencies and forensic lab-
4 oratories in communities with high rates of drug overdoses
5 for the purpose of—

6 (1) training to help officers identify overdoses;

7 (2) upgrading essential systems for tracing
8 drugs and processing samples in forensic labora-
9 tories to provide timely, accurate, and standard data
10 reporting to the National Forensic Laboratory Infor-
11 mation System; or

12 (3) training to better trace criminals through
13 the darknet.

14 (b) MANDATORY REPORTING.—None of the funds
15 made under subsection (a) may be used by grantees that
16 do not submit to the National Forensic Laboratory Infor-
17 mation System reports on overdose data.

18 (c) FEDERAL LAW ENFORCEMENT TRAINING CEN-
19 TERS.—Federal Law Enforcement Training Centers shall
20 provide training to State and local law enforcement agen-
21 cies on how to best coordinate with State and Federal
22 partners for tracking drug-related activity.

23 (d) COPS GRANTS.—Section 1701(b) of the Omni-
24 bus Crime Control and Safe Streets Act of 1968 (34
25 U.S.C. 10381) is amended—

1 (1) in paragraph (22), by striking “and” at the
2 end;

3 (2) in paragraph (23), by striking the period at
4 the end and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(24) to provide training and resources for con-
7 tainment devices to prevent secondary exposure to
8 fentanyl and other substances for first responders.”.

9 **SEC. 5. OFFICE OF NATIONAL DRUG CONTROL POLICY RE-**
10 **FORM.**

11 (a) SENSES OF CONGRESS.—It is the sense of Con-
12 gress that—

13 (1) the Director of the Office of National Drug
14 Control Policy shall be a Cabinet-level position; and

15 (2) nothing in this section shall affect the re-
16 porting structure of agencies with drug enforcement
17 responsibilities.

18 (b) REQUIREMENTS.—The Office of National Drug
19 Control Policy shall—

20 (1) document strategies for ensuring prevention
21 of duplicating services and grant funding within Na-
22 tional Drug Control Program agencies;

23 (2) collaborate with the National Center for
24 Health Statistics and the National Forensic Labora-
25 tory Information System, including by working with

1 the Department of Justice to create national stand-
2 ards for submission data to ensure uniformity across
3 the United States, including data from cases where
4 the defendant pleads guilty; and

5 (3) issue guidance that States and localities
6 should record overdose deaths as homicides if there
7 is sufficient evidence that the overdose was not self-
8 induced and intentional.

9 (c) DRUG ENFORCEMENT ADMINISTRATION.—

10 (1) IN GENERAL.—The Drug Enforcement Ad-
11 ministration shall develop uniform reporting stand-
12 ards for inputting data into the National Forensic
13 Laboratory Information System for purity, formula-
14 tion, and weight to allow for better comparison
15 across jurisdictions and between agencies and the
16 sharing of data.

17 (2) CLARIFICATION.—Nothing in paragraph (1)
18 may be construed to require the creation of new or
19 increased obligations or reporting requirements on
20 State or local laboratories.

21 (d) INTERAGENCY COORDINATING COUNCIL.—The
22 Office of National Drug Control Policy, the Department
23 of Justice, the Department of Health and Human Serv-
24 ices, and other National Drug Control Program agencies
25 coordinate across agencies to limit duplication and ensure

1 uniform reporting standards and improve relationships be-
2 tween the agencies.

3 (e) CONGRESSIONAL REVIEW ACT.—If the Office of
4 National Drug Control Policy does not certify that a final
5 rule made by a National Drug Control Program partici-
6 pant is consistent with the National Drug Control Policy,
7 the rule shall be deemed to be submitted under section
8 801(a)(1) of title 5, United States Code.

9 (f) REPROGRAMMING AND TRANSFER REQUESTS.—
10 Section 704(c)(4)(A) of the National Drug Control Policy
11 Reauthorization Act of 1998 (21 U.S.C. 1703(c)(4)(A))
12 is amended by striking “approved” and inserting “de-
13 nied”.

14 **SEC. 6. DEA TESTING.**

15 The Drug Enforcement Administration shall submit
16 to Congress, as part of the annual budget process, a spe-
17 cific line item for the level of funding necessary for the
18 Fentanyl Profiling Program.

19 **SEC. 7. STATE OPIOID RESPONSE GRANTS.**

20 The Assistant Secretary for Mental Health and Sub-
21 stance Use shall, to the extent practicable—

22 (1) include in the annual report to Congress on
23 the State Opioid Response Grants, authorized under
24 the Consolidated Appropriations Act, 2022 (Public
25 Law 117–103), an assessment of challenges of re-

1 recipients of such grants, accounting for variations in
2 implementation; and

3 (2) provide to recipients of such grants best
4 practices on how to address opioid-related overdoses.

○