

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2248
(Senators Hogue, Larson, Luick)
(Representatives Klemin, Louser)

AN ACT to create and enact a new section to chapter 19-03.1, and section 19-03.1-23.5 of the North Dakota Century Code, relating to a special penalty for death or injury through distribution of illegal drugs and fentanyl reporting; to provide a statement of legislative intent regarding fentanyl awareness expansion; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. As used in this section:
 - a. "Consume" means to inject, ingest, or inhale a controlled substance.
 - b. "Controlled substance" includes derivatives or analogs to a scheduled controlled substance.
 - c. "Injury" means an overdose that puts an individual's life at immediate risk.
 - d. "Supplies" includes delivering, supplying, directing, or willfully assisting another to supply or deliver a controlled substance.
2. An individual is guilty of causing death or injury by distributing a controlled substance if the individual willfully supplies another to deliver a controlled substance to an individual who consumes the controlled substance and that individual dies or is injured from overdosing after consuming a portion of the controlled substance.
 - a. A violation of this section is a class A felony.
 - b. This section does not limit a conviction under chapter 12.1-16, but an individual may not be found guilty of this section and an offense under chapter 12.1-16 if the conduct arises out of the same course of conduct.
3. Venue for an offense under this section is in the county where the death or injury occurred or any county where the controlled substance was directly or indirectly obtained by the deceased or injured individual.
 - a. An individual may not be convicted in more than one county for the death or injury of the same individual who overdosed on a controlled substance.
 - b. Notwithstanding chapter 29-03, an individual outside the state may be prosecuted within the state under this section.
 - c. The charging document for a violation of this section must list an overt act in which the individual engaged to violate this section.
 - d. Injury or death by an overdose may be proven by direct or circumstantial evidence.

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

SECTION 2. Section 19-03.1-23.5 of the North Dakota Century Code is created and enacted as follows:

19-03.1-23.5. Fentanyl reporting - Report to legislative management - Fentanyl awareness campaign.

1. By November first of each year, the department of health and human services shall submit to the legislative management and the governor a written report summarizing the number of deaths that occurred in the state caused by or related to fentanyl consumption during the preceding calendar year, including the county in which the deaths occurred and the age and gender of the deceased individuals.
2. The department of health and human services shall make the data reported under subsection 1 available to the public by:
 - a. Making the information easily accessible on the department's government website;
 - b. Publishing easily comprehensible printed materials on fentanyl awareness, information, and resources;
 - c. Placing visible billboards in high-traffic areas to inform the public of the dangers of fentanyl; and
 - d. Developing a media and social media campaign to expand statewide awareness of fentanyl drug deaths and the fentanyl overdose epidemic occurring within the state.

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2248.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 92 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State