

January 30, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2248

Page 1, line 1, replace "sections 19-03.1-23.5" with "a new section to chapter 19-03.1"

Page 1, line 1, after the second "and" insert "section"

Page 1, line 2, remove "a mandatory term of imprisonment for manufacturing or"

Page 1, line 3, replace "delivering fentanyl" with "a special penalty for death or injury through distribution of illegal drugs"

Page 1, line 3, remove "to amend and reenact subsection 2 of section"

Page 1, remove line 4

Page 1, line 5, remove "confidential informants;"

Page 1, line 5, replace "for application" with "an appropriation"

Page 1, replace lines 7 through 21 with:

"**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."

Page 2, line 2, replace ", "law" with ":

- a. "Health care provider" means a person licensed or certified by the state to provide health care services. The term includes emergency service personnel, a medical hospital, and a medical clinic.
- b. "Law"

Page 2, line 6, after "agency" insert "and a health care provider"

Page 2, line 7, after "agency" insert "or the provider"

Page 2, line 7, after "by" insert ", suspected to have been caused by."

Page 2, line 7, after "or" insert "is"

Page 2, line 13, after "agencies" insert "and health care providers"

Page 2, line 14, after "agency" insert "or health care provider"

Page 2, replace lines 22 through 29 with:

"SECTION 3. APPROPRIATION - ATTORNEY GENERAL - FENTANYL AWARENESS EXPANSION. There is appropriated out of any moneys from opioid-related lawsuit settlement proceeds, not otherwise appropriated, the sum of \$1,500,000, or so much of the sum as may be necessary, to the attorney general for the purpose of providing and expanding statewide awareness of the fentanyl drug and overdose epidemic, for the biennium beginning July 1, 2023, and ending June 30, 2025."

Renumber accordingly