

Date of Hearing: July 11, 2023
Consultant: Elizabeth Potter

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

SB 19 (Seyarto) – As Amended June 22, 2023

SUMMARY: Creates the Anti-Fentanyl Abuse Task Force to evaluate the nature and extent fentanyl abuse in California and to develop policy recommendations for addressing it. Specifically, **this bill:**

- 1) Establishes the Anti-Fentanyl Abuse Task Force, upon appropriation by the Legislature, to:
 - a) Collect and organize data on the nature and extent of fentanyl abuse in California;
 - b) Examine collaborative models between government and nongovernmental organizations for protecting persons who misuse fentanyl or other illicit substances that may contain fentanyl.
 - c) Develop policy recommendations for the implementation of evidence-based practices to reduce fentanyl overdoses, including, without limitation, overdose prevention centers, fentanyl testing strip distribution, and access to overdose reversal treatments.
 - d) Measure and evaluate the progress of the state in preventing fentanyl abuse and fatal fentanyl overdoses, protecting and providing assistance to persons who misuse fentanyl or other illicit substances that may contain fentanyl, and prosecuting persons engaged in the illegal manufacture, sale, and trafficking of fentanyl;
 - e) Evaluate approaches to increase public awareness of fentanyl abuse;
 - f) Analyze existing statutes for their adequacy in addressing fentanyl abuse and, if the analysis determines that those statutes are inadequate, recommend revisions to those statutes or the enactment of new statutes that specifically define and address fentanyl abuse; and,
 - g) Consult with governmental and nongovernmental organizations in developing recommendations to strengthen state and local efforts to prevent fentanyl abuse and fatal fentanyl overdoses, protect and assist persons who misuse fentanyl or other illicit substances that may contain fentanyl, and prosecute individuals engaged in the illegal manufacture, sale, and trafficking of fentanyl.
- 2) Requires the Attorney General or their designee to chair the task force, and requires the Department of Justice (DOJ) to provide staff and support for the task force, to the extent that resources are available.

- 3) Provides that members of the task force serve at the pleasure of the respective appointing authority, and that reimbursement of necessary expenses may be provided at the discretion of the respective appointing authority or agency participating in the task force.
- 4) Provides that the task force shall be comprised of the following representatives or their designees:
 - a) The Attorney General;
 - b) The Chairperson of the Judicial Council of California;
 - c) The Director of the State Department of Public Health;
 - d) The Director of the State Department of Health Care Services;
 - e) One member of the Senate, appointed by the Senate Rules Committee;
 - f) One member of the Assembly, appointed by the Speaker of the Assembly;
 - g) One representative from the California District Attorneys Association;
 - h) One representative from the California Public Defenders Association;
 - i) One representative from the California Hospital Association;
 - j) One representative from the California Society of Addiction of Medicine;
 - k) One representative from the County Health Executives Association of California;
 - l) Three representatives of local law enforcement, one selected by the California State Sheriff's Association and one selected by the California Police Chiefs' Association, one selected by the California Highway Patrol;
 - m) One representative from a community organizations representing persons with opioid use disorder, appointed by the Governor;
 - n) One university researcher and one mental health professional, appointed by the Governor;
 - o) A representative of a local educational agency, appointed by the Superintendent of Public Instruction;
 - p) The Speaker of the Assembly shall appoint one representative from an organization that provides services to homeless individuals and one representative from an organization that services persons who misuse fentanyl or other illicit substances that may contain fentanyl in southern California;
 - q) The Senate Rules Committee shall appoint one representative from an organization that provides services to homeless individuals and one representative from an organization that serves persons who misuse fentanyl or other illicit substances that may contain

fentanyl in northern California; and

- r) The Governor shall appoint one person in recovery from fentanyl or opioid abuse, and one person who has lost a family member to a fatal fentanyl overdose.
- 5) Requires members of the task force, whenever possible, to have experience providing services to persons who misuse fentanyl or other illicit substances that may contain fentanyl, or to have knowledge of fentanyl abuse issues.
- 6) Provides that the task force must meet once every two months.
- 7) Provides that subcommittees may be formed and meet as necessary.
- 8) Requires all meetings to be open to the public.
- 9) Provides that the first meeting of the task force shall be held no later than March 1, 2024.
- 10) Requires the task force, on or before July 1, 2025, to report its findings and recommendations to the Governor, the Attorney General, and the Legislature.
- 11) Provides that, at the request of any member, the report may include minority findings and recommendations.
- 12) Defines “fentanyl abuse” as “the use of fentanyl or produces containing fentanyl in a manner or with a frequency that negatively impacts one or more areas of physical, mental, or emotional health.”
- 13) Provides a sunset date of January 1, 2026.

EXISTING LAW:

- 1) Lists controlled substances in five “schedules” - intended to list drugs in decreasing order of harm and increasing medical utility or safety - and provides penalties for possession of and commerce in controlled substances. Schedule I includes the most serious and heavily controlled substances, with Schedule V being the least serious and most lightly controlled substances. (Health & Saf. Code, §§ 11054-11058.)
- 2) Lists fentanyl on Schedule II. (Health & Saf. Code, § 11055.)
- 3) Provides that a person who possesses any controlled substance, as specified, unless upon a valid prescription, shall be punished by imprisonment in a county jail for not more than one year, unless that person has had one or more prior convictions, as specified. (Health & Saf. Code, § 11350.)
- 4) States that in addition to the term of imprisonment provided by law for persons convicted of violating specified drug offenses, including possession, the trial court may impose a fine not exceeding \$20,000 for each offense. (Health & Saf. Code, § 11372, subd. (a).)

- 5) Commits the state to reinvesting criminal justice resources to support community corrections programs and evidence-based practices that will achieve improved public safety returns on the state's substantial investment in its criminal justice system. (Pen. Code, § 3450, subd. (b)(4).)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Author's Statement:** According to the author, "The potency and availability of illicit fentanyl is a threat to all Californians. Local agencies need the tools to keep our communities safe and to hold those responsible for poisoning our communities accountable for this catastrophe. This taskforce will identify the resources necessary to respond to and bring the scourge of fentanyl under control. Fentanyl is a new threat and unlike anything the state has seen before, our communities deserve a coordinated policy response with proven strategies which this taskforce will recommend."
- 2) **The Use of Fentanyl:** The Drug Enforcement Agency classifies Fentanyl as a Schedule II drug. Schedule II drugs are considered highly addictive and therefore highly regulated. Drugs on this list are for medical use and require a medical prescription.

According to the Centers for Disease Control (CDC), "Pharmaceutical fentanyl is a synthetic opioid, approved for treating severe pain, typically advanced cancer pain. It is 50 to 100 times more potent than morphine. It is prescribed in the form of transdermal patches or lozenges and can be diverted for misuse and abuse in the United States.

"However, most recent cases of fentanyl-related harm, overdose, and death in the U.S. are linked to illegally made fentanyl.² It is sold through illegal drug markets for its heroin-like effect. It is often mixed with heroin and/or cocaine as a combination product—with or without the user's knowledge—to increase its euphoric effects."

(<https://www.cdc.gov/opioids/basics/fentanyl.html>)

In California, the number of overdoses relating to fentanyl are growing at an unprecedented rate. The California Department of Public Health (CDPH) states that, "The opioid epidemic is dynamic, complex, and rapidly changing. Between 2012 and 2018, fentanyl overdose deaths increased by more than 800%—from 82 to 786." (CDPH, Overdose Prevention Initiative <<https://www.cdph.ca.gov/Programs/CCDC/DCDC/SACB/Pages/PrescriptionDrugOverdoseProgram.aspx?msclkid=99f1af92b9e411ec97e3e1fe58cde884>> [last visited Jun. 29, 2023].) In 2021, there were 5,961 deaths related to fentanyl overdoses. (CDPH, California Overdose Surveillance Dashboard <<https://skylab.cdph.ca.gov/ODdash/?tab=Home>> [last visited Jun. 29, 2023]).

CDPH is at the forefront of the fentanyl crisis in California. According to their website, "CDPH works closely with local health departments, opioid safety coalitions, and other local level partners to support local prevention and intervention efforts. Working closely with local health departments, opioid safety coalitions, and other local level partners allows CDPH to support local prevention and intervention efforts that address the specific and unique trends and needs of California's communities."

(https://www.cdph.ca.gov/Programs/CCDC/DCDC/SACB/Pages/Fentanyl.aspx?utm_source=dc_gs)

<https://www.dea.gov/press-releases/2022/02/07/dea-washington-division-launches-operation-overdrive> [last visited Jun. 29, 2023]).

- 3) **Current Law Enforcement Efforts:** Due to the severity and rapid prevalence of the fentanyl crisis, the Drug Enforcement Administration (DEA) announced on February 7, 2022 a new initiative aimed -- Operation Overdrive -- at combatting the rising rates of drug-related violent crime and overdose deaths plaguing American communities. (<https://www.dea.gov/press-releases/2022/02/07/dea-washington-division-launches-operation-overdrive>) [July 5, 2023]). In January, the DEA Washington Division announced *their new data-driven approach* to combatting violent crime and overdose deaths across the area, in order to devote its law enforcement resources to where they will have the most impact: the communities where criminal drug networks are causing the most harm. (*Id.*)

Operation Overdrive, launching in 34 cities and 23 states across the U.S., is launching in 3 cities in our area – Baltimore, Maryland; Washington, D.C.; and Richmond, Virginia. Operation Overdrive aims to use a data-driven, intelligence-led approach to identifying and dismantling criminal drug networks operating in areas with the highest rates of violence and overdoses. (*Id.*)

Speaker Emerita Pelosi requested to have San Francisco included as part of Operation Overdrive. The U.S. Department of Justice responded to the inquiry with the following, “The Deputy Attorney General and the DEA Administrator are committed to including San Francisco in the upcoming phase of Operation Overdrive. DEA is now assessing the results of their enforcement operations in 57 Operation Overdrive locations across the country, while also reviewing the most recent violent crime and drug poisoning data, to select the remaining Operation Overdrive locations. DEA expects to launch this next phase of Operation Overdrive in the coming months.”

In addition to efforts at the federal level, the Governor has also made a commitment to combat the fentanyl crisis. In a recent press release, the governor’s office announced, “As part of the joint public safety partnership with the City of San Francisco, today Governor Gavin Newsom announced he is directing the California Highway Patrol (CHP) to expand its operational footprint — doubling the number of officers deployed — and authorizing the CHP to conduct targeted surges with law enforcement partners to fight crime and further crackdown on the fentanyl crisis gripping San Francisco. Personnel assigned to the expanded operation are expected to include some of the more than 100 new CHP officers slated to graduate from the CHP Academy this week, as well as active officers within the CHP’s Golden Gate Division.” (<https://www.gov.ca.gov/2023/06/page/6/>) [Jul. 5, 2023])

This bill would create a task force to address the fentanyl crisis and would consist of 20 individuals from various backgrounds including, but not limited to: the Attorney General; the Chairperson of the Judicial Council of California; law enforcement representatives; public health officials; and individuals with substance use disorders. This bill would require that the task force meet at least once every two months and that the first meeting of the task force be held by March 1, 2024. The task force must report its findings and recommendations to the Governor, the Attorney General, and the Legislature by July 1, 2025. The provisions of this

bill would sunset on January 1, 2026.

- 4) **Duplication of Efforts – The State Opioid Task Force:** The state’s 2022-23 budget included \$7.9 million in 2022-23 and \$6.7 million ongoing to fund the Fentanyl Task Force within DOJ to help tackle the fentanyl crisis. (*Governor’s Budget Summary – 2023-24* at p. 117 <<https://ebudget.ca.gov/2022-23/pdf/Enacted/BudgetSummary/FullBudgetSummary.pdf>> [Jun. 29, 2023].) The task force includes 25 new positions within DOJ to support those efforts. (*Ibid.*) This bill would require the DOJ to provide staff and support for a separate task force, which could result in some duplication of effort.

Building on the 2022-23 Budget, the State’s 2023-24 allocates additional funding to combat fentanyl abuse. The budget allocates \$93 million over the next four years, including \$79 million for Naloxone distribution projects; \$10 million for grants for education, testing, recovery, and support services; \$4 million to make test strips more available; and, \$3.5 million for overdose medication for all middle and high schools. (*Governor’s Budget Summary – 2023-24* at p. 69 <<https://ebudget.ca.gov/FullBudgetSummary.pdf>> [Jun. 29, 2023].)

The Governor’s Master Plan for Tackling the Fentanyl and Opioid Crisis also includes \$30 million to expand California National Guard’s work to prevent drug-trafficking transnational criminal organizations and \$15 million over two years to establish and operate the Fentanyl Enforcement Program within the Department of Justice to combat manufacturing, distribution, and trafficking. To the extent this bill requires the task force to conduct a public awareness campaign, the Governor has allocated \$40.8 million education and awareness campaign to establish partnerships and create messaging and education tools for parents and educators and \$23 million substance use disorder workforce grants to develop substance use disorder training for non-behavioral health professionals working with children and youth. (*Governor Newsom’s Master Plan for Tackling the Fentanyl and Opioid Crisis* <https://www.gov.ca.gov/wp-content/uploads/2023/03/Fentanyl-Opioids-Glossy-Plan_3.20.23.pdf?emrc=86c07e> [Jun. 29, 2023].)

- 5) **Argument in Support:** According to *The California Hospital Association*, “While the Statewide Overdose Safety Workgroup (established in 2014 by the California Department of Public Health) works to address opioid use, misuse, addiction, and related overdoses, the proposed task force would have additional responsibilities that are not supported by the workgroup, such as analyzing whether existing law adequately addresses fentanyl abuse. In addition, the task force would focus on fentanyl while the workgroup is tasked with addressing opioids more broadly. Having a specific focus would allow the task force to enhance the state’s current work by examining and providing recommendations to state leadership on fentanyl-related issues from a coordinated, collaborative, and multisector approach.

“As hospitals are on the front lines of this growing problem and treat fentanyl patients daily, we greatly appreciate that SB 19 includes a representative of CHA on the task force. Having a hospital voice at the table is critical to understanding the best response to this crisis from all perspectives, including health care providers tasked with caring for people in crisis.”

- 6) **Argument in Opposition:** According to *Drug Policy Alliance (DPA)*, “DPA understands the need to evaluate statewide efforts to help inform strategies to reduce the harms associated

with fentanyl use, however, we strongly believe that any attempt to examine and measure the impact of fentanyl must be led by public health experts, with the specialty in harm reduction and substance use disorder treatment as well as drug policy experts. The approach taken in SB 19 structures this task force as being more prosecutorial focused rather than recognizing substance use as being a health crisis. In a year when the state is facing billions of dollars in deficit, it's counterproductive to pour more funds into a law enforcement approach to analyze the state's work on mitigating the harms of fentanyl. Creating another enforcement styled body will not help solve the opioid overdose crisis in our state, rather it runs the risk of operating counter to existing health centered task forces and working groups. Additionally, the structure of this bill strays away from the evidence-based healthcare treatment approaches that have been proven to work.

“To best accomplish the bills stated goal to *“mobilize state and local resources to evaluate the best practices for combating fentanyl,”* we believe it is necessary to have majority representation by directly-involved academics and experts including California health providers, harm reduction organizations and treatment professionals. It's concerning that out of the twenty-one members of the task force only two members will be people with lived experience.

“The state would be better served by further investing in a work group that is overseen by experts prioritizing and centering health approaches to addressing the root causes of the overdose crisis. We'd also recommend to revisit the reimbursement provision in the bill as it doesn't seem fair to have “reimbursement of necessary expenses” at the discretion of the person/entity appointing the member.

“Until this task force is restructured, we ask the legislature to support the work that the California Department of Public Health is already doing and ensuring that the state makes investments in harm reduction, increasing access to treatment on demand, and building out the substance use assessment system so that referrals and information can be provided directly and in real time to those individuals and communities in need.”

- 7) **Related Legislation:** AB 33 (Bains), would establish the Fentanyl Addiction and Overdose Prevention Task Force. AB 33 is substantially similar to this bill and is pending hearing in the Senate Committee on Appropriations.
- 8) **Prior Legislation:**
 - a) AB 1673 (Seyarto), was substantially similar to this bill. AB 1673 was held in the Assembly Committee on Appropriations.
 - b) AB 2365 (Patterson), Chapter 783, Statutes of 2022, requires the California Health and Human Services Agency to, upon appropriation, establish a grant program to reduce fentanyl overdoses and use throughout the state by giving six one-time grants to increase local efforts in education, testing, recovery, and support services, as specified.
 - c) SB 1395 (Bates) of the 2019 – 2020 Legislative, would have required the AG to establish and chair the Southern California Fentanyl Task Force (SCFTF), which would have developed information, made recommendations, and reported findings to the DOJ and to the Legislature regarding matters relating to the fentanyl crisis in southern California

communities. SB 1395 was held in the Senate Public Safety Committee.

- d) AB 186 (Eggman), of the 2017 – 2018 Legislative Session, would have authorized the City and County of San Francisco to approve entities to operate an overdose prevention program for adults supervised by healthcare professionals or other trained staff where people can safely use drugs and get access to referrals to addiction treatment. AB 186 was vetoed by Governor Brown.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Burbank Police Officers' Association
California Academy of Family Physicians
California Coalition of School Safety Professionals
California District Attorneys Association
California Hospital Association
California Society of Health System Pharmacists
California State Sheriffs' Association
City of Alameda
City of Carlsbad
City of Laguna Niguel
City of Murrieta
City of Norwalk
City of Placentia
City of Riverside
Claremont Police Officers Association
Corona Police Officers Association
County Health Executives Association of California (CHEAC)
Culver City Police Officers' Association
Fullerton Police Officers' Association
Inglewood Police Officers Association
League of California Cities
Los Angeles School Police Officers Association
Newport Beach Police Association
Orange County District Attorney
Orange; County of
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Upland Police Officers Association

Oppose

Drug Policy Alliance

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