

Date of Hearing: April 8, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 1667 (Boerner) – As Introduced January 29, 2026

Policy Committee: Public Safety Vote: 9 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill makes selling, furnishing, administering, or giving fentanyl to a minor a “serious” felony by adding fentanyl and fentanyl analogs to a statutorily defined list of controlled substances.

FISCAL EFFECT:

Incarceration costs (General Fund) of an unknown but potentially significant amount to the California Department of Corrections and Rehabilitation (CDCR), possibly in the hundreds of thousands of dollars annually. As discussed in more detail below, a person charged with or convicted of a serious felony is likely to receive a longer prison term than they would for a standard felony and will receive a significantly longer sentence if they are convicted of any subsequent serious felonies. Longer sentences will result in increased incarceration costs to CDCR in the long term.

The actual number of people convicted each year for selling fentanyl to minors is unknown. CDCR data shows 26 new admissions into state prison in 2026 with a primary or secondary offense of selling controlled substances to minors. By way of illustration, if there are three people convicted of selling fentanyl to a minor and each person is later convicted of another serious felony, this bill will result in each of them receiving a mandatory five-year enhancement in addition to their underlying sentence. The Legislative Analyst’s Office estimates the average annual cost to incarcerate one person in state prison is \$128,000. CDCR estimates the annual cost is \$135,921. If even two people serve an additional one year each in prison because of this bill, the resulting incarceration costs to CDCR would exceed this committee’s suspense threshold. Actual costs will depend on the number of relevant offenses and judicial discretion, but the overall effect will be an increase in incarceration costs resulting from designating this offense as a serious felony.

The Legislative Analyst’s Office recently warned of General Fund structural deficits of around \$35 billion per year in the 2027-28 fiscal year and ongoing.

COMMENTS:

1) **Purpose.** According to the author,

Fentanyl is increasingly affecting our communities. Its proliferation has had disastrous consequences. This bill is a common-sense measure that

ensures that the drugs on the existing serious felony list include a deadly contemporary drug: fentanyl. We should be protecting our children from drugs that can cause serious, even fatal harm.

- 2) **Background.** Certain controlled substances, including fentanyl, are illegal to sell, furnish, administer, or give away to a minor. Under existing law, the crime is elevated to a “serious” felony when the substance is cocaine, PCP, heroin and methamphetamine. Fentanyl sale to a minor is not considered a “serious” felony. Unlike these other drugs, fentanyl is often mixed with other substances or used in counterfeit pills, often unbeknownst to the seller.

In the California Penal Code, a “serious felony” has a particular legal meaning. Being charged with or convicted of a serious felony has significant implications for the way a defendant’s case proceeds and sentencing for subsequent offenses. For example, plea bargaining is prohibited in any case in which the defendant is charged with a serious felony, meaning that a prosecutor cannot offer such a defendant an opportunity to plead guilty to a lesser offense in exchange for information about other, potentially more culpable perpetrators. If a person who has been convicted of a serious felony is later convicted of another serious felony, the court must impose an automatic five-year sentence enhancement in addition to their base sentence. A person facing a felony charge who has previously been convicted of a serious felony may not be granted probation for their current offense.

Currently, selling or otherwise furnishing heroin, cocaine, PCP, or any methamphetamine-related drug is a serious felony subject to the conditions described above. This bill additionally designates selling or providing fentanyl to a minor as a serious felony. Under existing law, selling fentanyl to a minor is punishable as a felony by a base term of three, six, or nine years in state prison. Under this bill, anyone charged or convicted of selling fentanyl to a minor will be subject to the conditions described above, and, if they are later convicted of another serious felony, would receive a substantially longer prison sentence for that offense.

- 3) **Prior Legislation.** AB 568 (Lackey), of the 2025-2026 Legislative Session, was substantially similar to this bill, but was amended to include a knowledge requirement before being gut-and-amended in the Senate.

SB 432 (Seyarto), of the 2025-2026 Legislative Session, was substantially similar to this bill. SB 432 was held in suspense in the Senate Appropriations Committee.

Analysis Prepared by: Shiran Zohar / APPR. / (916) 319-2081