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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair  
2025 - 2026 Regular Session

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### **SB 432 (Seyarto) - Serious felonies: furnishing fentanyl to a minor**

**Version:** April 2, 2025

**Urgency:** No

**Hearing Date:** May 12, 2025

**Policy Vote:** PUB. S. 6 - 0

**Mandate:** Yes

**Consultant:** Liah Burnley

**Bill Summary:** SB 432 designates the crime of giving fentanyl to a minor as a serious felony, including for the purposes of the Three Strikes Law.

#### **Fiscal Impact:**

- **Trial Courts:** Unknown, potentially significant cost to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate the criminal penalties created by this bill. Defendants are constitutionally guaranteed certain rights during criminal proceedings, including the right to a jury trial and the right to counsel (at public expense if the defendants are unable to afford the costs of representation). Increasing criminal, could lead to lengthier and more complex court proceedings with attendant workload and resource costs to the court.

Specifically, designating an offense as a serious felony, as proposed by this bill would create additional unique trial court cost pressures. Being charged with 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 perpetrator. Instead, more cases will require lengthy jury trials.

The fiscal impact of this bill to the courts will depend on many unknown factors, including the numbers of people charged with an offense and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. In 2023–24, over 4.8 million cases were filed statewide in the superior courts, including 179,821 felony cases. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations. The Governor's 2025-26 budget proposes a \$40 million ongoing increase in discretionary funding from the General Fund to help pay for increased trial court operation costs beginning in 2025-26.

- **California Department of Corrections and Rehabilitation (CDCR):** Unknown, potentially significant costs (local funds, General Fund) to CDCR to incarcerate people for significant time for this offense. A person convicted of a serious felony will receive a longer prison term, and will receive a significantly longer sentence if they are convicted of any subsequent serious felonies.

The Legislative Analyst's Office (LAO) estimates the average annual cost to incarcerate one person in state prison is \$133,000. The actual number of people convicted each year for selling fentanyl to minors is unknown. CDCR data shows 21 new admissions into state prison in 2024 with a primary offense of selling controlled substances to minors. By way of illustration, if there are three people convicted of giving 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. Collectively, these additional 15 years of enhancements would result in incarceration costs of approximately \$2 million over five years.

Given the prevalence of mental illness among incarcerated people, particularly relating to substance abuse, legislation that sends more people to state prison adds significant costs to CDCR for the delivery of mental health care. About one-third of the prison population has a diagnosed mental health need. The annual cost of operating a mental health crisis bed at CDCR is around \$400,000. As part of the ongoing *Coleman* court case, CDCR has been incurring fines monthly since April 2023 for failing to reduce vacancy rates for five mental health classifications. The state has paid over \$200 million in fines to date, and is still accruing fines. In addition, the Governor's budget estimates that Proposition 36 (2024), which increased punishment for various theft and drug crimes, will cause the average daily prison population to be about 1% higher in 2024-25 and 4% higher in 2025-26.

- **Department of State Hospitals (DSH):** Unknown, potentially significant costs (General Fund) to the DSH, in order to adequately house, treat, and care for an expanded population of persons committed to DSH under the provisions of this bill that otherwise would not. Cost pressures to DSH are connected with an increase in state prison sentences. Designating a crime as a serious felony with a potential 25 years to life sentence will increase the number of defendants declared incompetent to stand trial (IST), or committed to DSH due to their being not guilty by reason of insanity. DSH, in conjunction with CDCR, developed new methodologies to increase *Coleman* referrals from CDCR to DSH. In recent years, California has invested significantly in attempting to decrease the IST population. DSH's proposed budget for fiscal year 2025-26 totals \$3.4 billion – an increase of \$3.4 million from the 2024 Budget Act. This bill could significantly increase the IST population, resulting in the need for additional funding.

**Background:** Existing law prohibits selling, furnishing, administering, giving away fentanyl to a minor. The punishment for this offense is 3, 6, or 9 years in state prison. Sentence enhancements of 1 to 3 years can be added to a person's sentence if the defendant is 4 years older than the minor. A sentence enhancement of 3 years may also be added if the person to whom the substance was sold, furnished, administered or given suffers a significant or substantial physical injury from using the substance, such as an overdose. Proposition 36 enacted "Alexandra's Law." Pursuant to Alexandra's law, the court must warn a defendant convicted of, or entering a plea to, manufacturing, distributing, selling, furnishing, administering or giving away fentanyl that if they do so again, and if someone dies, they could be charged with murder. As a result, a subsequent acts of giving fentanyl to a minor could potentially lead to a murder.

conviction—carrying a much longer sentence than a five-year enhancement, as is required under current law.

This bill attempts to reduce the number of young people dying of overdoses involving fentanyl by significantly increasing the punishment for those who give fentanyl to minors. While this is most certainly an important goal, harsher sentences for drug offenses may be particularly ineffective, and could produce the *opposite effect* for those engaged in drug-related offending.

**Proposed Law:** This bill makes the crime of furnishing fentanyl to a minor a serious felony, which has the following ramifications:

- Prohibits plea bargaining;
- Prohibits probation if the defendant has one or more prior “serious” or violent” felony convictions;
- Adds an additional and consecutive five-year enhancement for each prior conviction of any other serious felony;
- The conviction will count as a strike for sentencing under the Three Strikes Law;
- If the defendant has one prior conviction for a “serious” or “violent” offense, the term of imprisonment is twice the term otherwise imposed for the current offense; and,
- If the defendant has two or more prior convictions for “violent” or “serious” offenses, the term is life in prison with a minimum term of 25 years.

**Related Legislation:** AB 568 (Lackey) of this legislative session, as introduced, was identical to this bill. On March 25, 2025, that bill was heard in the Assembly Public Safety Committee. The author accepted committee amendments to delete the provisions which would have made it a “strike.”

**Staff Comments:** This bill will result in significant state costs, without a guaranteed return on the investment. Putting people behind bars for drug offenses for longer periods has generated enormous costs for taxpayers, without a demonstrated impact on public safety, and has siphoned funds away from programs, practices, and policies that have been proved to reduce drug use and crime.<sup>1</sup>

This bill imposes no requirement that a defendant know the age of the person they give fentanyl to. It also sets no threshold for how much fentanyl must be shared to trigger a serious felony charge. The offense goes far beyond drug sales — it includes “giving,” “offering to sell,” or “offering to give” fentanyl. That means even casual or social use could lead to a serious felony conviction. Under this bill, a college student could face a

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<sup>1</sup> PEW, *More Imprisonment Does Not Reduce State Drug Problems* (Mar. 2018) p. 10

[https://www.pewtrusts.org/-/media/assets/2018/03/pspp\\_more\\_imprisonment\\_does\\_not\\_reduce\\_state\\_drug\\_problems.pdf](https://www.pewtrusts.org/-/media/assets/2018/03/pspp_more_imprisonment_does_not_reduce_state_drug_problems.pdf).)

serious felony conviction for *offering* a single pill to someone they did not realize was 17 at a party, even if the person asked for the pill.

Mass incarceration in California did not occur in a vacuum; it was the result of decades of cumulative policy decisions—often well-intentioned on their own—that collectively expanded the scope and severity of the criminal justice system. Although individual pieces of legislation like this bill, and many others introduced this legislative session, may appear narrow or incremental, their combined effect will significantly increase incarceration rates. California has a well-documented history of prison overcrowding, which culminated in federal court intervention and a U.S. Supreme Court ruling in *Brown v. Plata* (2011) that found the state's prison conditions unconstitutional due to severe overcrowding. Returning to such conditions would undermine fiscal sustainability, public safety, and rehabilitation goals

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