
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 33 **Hearing Date:** June 27, 2023
Author: Bains
Version: June 14, 2023
Urgency: Yes **Fiscal:** Yes
Consultant: SJ

Subject: *Fentanyl Addiction and Overdose Prevention Task Force*

HISTORY

Source: Author

Prior Legislation: AB 1673 (Seyarto), held in Assembly Appropriations in 2022

Support: California Academy of Family Physicians; California Association of Highway Patrolmen; California Black Health Network; California Catholic Conference; California Contract Cities Association; California Hospital Association; California Police Chiefs Association; California Society of Health System Pharmacists; California State Association of Counties; California Statewide Law Enforcement Association; City of Bakersfield; City of Long Beach; City of Norwalk; City of Simi Valley; City of Soledad; City of Thousand Oaks; County Behavioral Health Directors Association of California; County Health Executives Association of California; County of Ventura; Emergency Nurses Association, California State Council; Peace Officers Research Association of California

Opposition: None known

Assembly Floor Vote: 78 - 0

PURPOSE

The purpose of this bill is to establish the Fentanyl Addiction and Overdose Prevention Task Force.

Existing law establishes the California Uniform Controlled Substances Act, which regulates controlled substances. (Health & Saf. Code, § 11000 et seq.)

Existing law classifies controlled substances into five schedules according to their danger and potential for abuse. (Health & Saf. Code, §§ 11054-11058.)

Existing law classifies fentanyl as a Schedule II controlled substance. (Health & Saf. Code, § 11055, subd.(c)(8).)

Existing law makes it unlawful to possess specified controlled substances, including heroin, cocaine base, cocaine, hydrocodone, and fentanyl. Provides that the punishment is imprisonment

in the county jail for not more than one year unless the person has one or more prior convictions for a serious or violent felony, as specified. (Health & Saf. Code, § 11350, subd. (a).)

Existing law makes it unlawful for a person to possess for sale or purchase for purpose of sale several specified controlled substances, including heroin, cocaine, opium, and fentanyl. Provides that the punishment is imprisonment in the county jail for two, three, or four years. (Health & Saf. Code, § 11351.)

Existing law makes it unlawful for a person to transport, import, sell, furnish, administer, or give away, or offer or attempt to transport, import, sell, furnish, administer, or give away specified controlled substances, including cocaine, cocaine base, heroin, and fentanyl. Provides that the punishment is imprisonment in the county jail for three, four, or five years. Provides that the punishment for transporting those specified controlled substances within the state between noncontiguous counties is imprisonment in the county jail for three, six, or nine years. (Health & Saf. Code, § 11352.)

Existing law 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).)

This bill establishes the Fentanyl Addiction and Overdose Prevention Task Force to do the following, to the extent feasible:

- Collect and organize data on the nature and extent of fentanyl abuse in California.
- Identify and assess sources and drivers of legal and illicit fentanyl activity in California.
- Measure and evaluate the progress and effectiveness of the state's education, prevention, treatment, and enforcement efforts in preventing fentanyl abuse and death from the intentional use of fentanyl or the unintentional use of illicit substances containing fentanyl, including the prosecution of persons engaged in the illegal manufacture, sale, and trafficking of fentanyl.
- Evaluate approaches to increase public awareness of fentanyl abuse.
- 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.
- Consult with governmental and nongovernmental organizations in developing recommendations to strengthen state and local efforts to prevent fentanyl abuse and death from the intentional use of fentanyl or the unintentional use of illicit substances containing fentanyl, protect and assist persons who misuse fentanyl or other illicit substances that may contain fentanyl, develop policy recommendations on the implementation of evidence-based practices to reduce fentanyl overdoses, and prosecute individuals engaged in the illegal manufacture, sale, and trafficking of fentanyl.
- Develop model treatment protocols for medication-assisted treatment (MAT) of fentanyl addiction and abuse, including, but not limited to, the prescription of buprenorphine and other medications.
- Recommend strategies to increase the ability and willingness of the medical community to treat fentanyl addiction and abuse, including identifying barriers to accessing medical care, biases within the medical community against people who misuse fentanyl or other illicit substances that may contain fentanyl, and legal, regulatory, and practical hurdles in

the delivery of MAT, behavioral therapy, and other medical strategies critical in the treatment of fentanyl addiction and abuse, which may include, but are not limited to, overdose prevention centers, fentanyl testing strip distribution, and access to overdose reversal treatment.

- Assess gaps in federal, state, and local resources to address fentanyl addiction and abuse.

This bill provides that the task force co-chaired by the Attorney General and the Surgeon General or their designees.

This bill requires the Department of Justice and the Office of the Surgeon General to provide staff and support for the task force, to the extent that resources are available.

This bill provides that the members of the task force serve at the pleasure of the respective appointing authority. *This bill* authorizes reimbursement of necessary expenses to be provided at the discretion of the respective appointing authority or agency participating in the task force.

This bill provides that the task force is comprised of the following representatives or their designees:

- The Attorney General.
- The Surgeon General.
- The State Public Health Officer.
- The Director of Health Care Services.
- The Director of Social Services.
- The Secretary of California Health and Human Services.
- One Member of the Senate, appointed by the Senate Rules Committee.
- One Member of the Assembly, appointed by the Speaker of the Assembly.
- The Chairperson of the Judicial Council.
- One representative from the California District Attorneys Association.
- One representative from the California Public Defenders Association.
- One representative from the State Department of Education.
- One representative from the California Hospital Association.
- One representative from the California Medical Association.
- One representative from the County Health Executives Association of California.
- One representative from the County Behavioral Health Directors Association of California.
- One representative from a local health department, appointed by the Governor.
- Three representatives of law enforcement, one selected by the California State Sheriffs' Association, one selected by the California Police Chiefs Association, and one selected by the Department of the California Highway Patrol.
- One representative from the California Society of Addiction Medicine who is a mental health professional.
- One representative who is in recovery from fentanyl or opioid abuse, appointed by the Governor.
- One representative from a federally qualified health center, appointed by the Governor.
- One representative from an organization that provides services to homeless individuals, one representative from an organization that provides services to individuals with substance use disorders, and one representative from an organization that serves persons

who misuse fentanyl or other illicit substances that may contain fentanyl, appointed by the Governor.

- One representative from an organization that provides services to youths relating to substance abuse.

This bill requires, whenever possible, that members of the task force have experience providing services to persons who misuse fentanyl or other illicit substances that may contain fentanyl or have knowledge of fentanyl abuse issues.

This bill requires that the task force meet at least once every two months. Authorizes subcommittees to be formed and meet as necessary. Requires all meetings to be open to the public. Requires the first meeting to be held no later than March 1, 2024.

This bill requires the task force to report its findings and recommendations to the Governor and the Legislature on or before July 1, 2025. Provides that the report may include minority findings and recommendations at the request of any member.

This bill requires the task force to submit an interim report to the Governor and the Legislature on or before January 1, 2025.

This bill requires a report to be submitted pursuant to the provisions of this bill to be submitted in compliance with Section 9795 of the Government Code.

This bill defines “fentanyl abuse” as the use of fentanyl or products containing fentanyl in a manner, or with a frequency, that negatively impacts one or more areas of physical, mental, or emotional health.

This bill provides that it be implemented only to the extent that an appropriation is made by the Legislature.

This bill includes a sunset date of January 1, 2026.

This bill contains an urgency clause.

COMMENTS

1. Need For This Bill

According to the author:

Fentanyl addiction is a serious public safety and public health issue that requires an organized response. Establishing a task force that is dedicated to combating fentanyl addiction and death is essential. This task force should bring together law enforcement, public health officials, and healthcare providers to coordinate an effective response to the problem. The task force will focus on a number of different strategies, including increasing access to overdose-reversing drugs, improving substance use disorder treatment and recovery support, and crafting strategies to reduce the availability of illicit fentanyl. Working with law enforcement and public health officials, the task force can monitor drug distribution and develop strategies to prevent the use, manufacture, and

distribution of illicit fentanyl. The task force can also work to raise public awareness about the dangers of fentanyl, as well as connect people with substance use disorder treatment and recovery support. Public education campaigns should be continued and expanded to help inform the public about the dangers of fentanyl, as well as provide resources for those who are struggling with addiction. In order to combat the fentanyl epidemic, it is essential to establish a task force that is dedicated to this cause. By focusing on strategies to reduce the availability of fentanyl and increase public awareness, the task force can help to reduce the devastating impact that fentanyl is having on our communities.

2. Fentanyl in California

The number of deaths involving fentanyl in California has increased dramatically in recent years. 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/CCDPHP/DCDIC/SACB/Pages/PrescriptionDrugOverdoseProgram.aspx?msclkid=99f1af92b9e411ec97e3e1fe58cde884>> [last visited Jun. 19, 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. 19, 2023].)

3. Existing Statewide Efforts

The state's 2022-23 budget included \$7.9 million in 2022-23 and \$6.7 million ongoing to fund the Fentanyl Enforcement Program within DOJ to combat the manufacturing, distribution, and trafficking of fentanyl throughout and into the state by organized criminal enterprises. (Governor Newsom, *California State Budget 2022-23*, p. 118 available at <<https://ebudget.ca.gov/2022-23/pdf/Enacted/BudgetSummary/FullBudgetSummary.pdf>> as of [Jun. 19, 2023].) The budget funded 25 new positions within DOJ to support those efforts. (*California State Budget 2022-23, Department of Justice Detailed Department Overview*, p. 3 available at <<https://ebudget.com.ca.gov/2022-23/pdf/Enacted/GovernorsBudget/0100/0820.pdf>> as of [Jun. 19, 2023].)

The Governor's proposed 2023-24 budget funds \$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 Newsom, *Governor's Budget Summary 2023-24*, p. 69 available at <<https://ebudget.ca.gov/2023-24/pdf/BudgetSummary/FullBudgetSummary.pdf>> as of [Jun. 19, 2023].) In addition, the May Revision to the 2023-24 budget allocates \$141.3 million in Opioid Settlement Funds over four years for the Naloxone Distribution Project, and another \$30 million in one-time Opioid Settlement Funds to support the development of a lower cost generic Naloxone nasal spray. (Governor Newsom, *May Revision to the California State Budget 2023-24*, p. 60 available at <<https://ebudget.ca.gov/2023-24/pdf/Revised/BudgetSummary/FullBudgetSummary.pdf>> as of [Jun. 19, 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. The Governor has additionally allocated \$40.8 million for an education and awareness campaign to establish partnerships and create messaging and education tools for parents and educators as well as \$23 million for 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* (Mar. 2023) available at <https://www.gov.ca.gov/wp-content/uploads/2023/03/Fentanyl-Opioids-Glossy-Plan_3.20.23.pdf?emrc=86c07e> [as of Jun. 19, 2023].)

4. Fentanyl Addiction and Overdose Prevention Task Force

In order to address the ongoing fentanyl crisis, this bill establishes the Fentanyl Addiction and Overdose Prevention Task Force to do a number of things, including collect data on the nature and extent of fentanyl abuse in the state, identify and assess sources and drivers of legal and illicit fentanyl activity in the state, measure and evaluate the progress and effectiveness of the state's education, prevention, treatment, and enforcement efforts in preventing fentanyl abuse and death from the intentional or unintentional consumption of fentanyl, evaluate approaches to increase public awareness of fentanyl abuse, analyze existing statutes for their adequacy in addressing fentanyl abuse, develop policy recommendations on the implementation of evidence-based practices to reduce fentanyl overdoses, and develop model treatment protocols for medication-assisted treatment (MAT) of fentanyl addiction and abuse, among other things. The task force includes 27 members, including the Attorney General, State Public Health Officer, Director of the Department of Health Care Services, representatives of law enforcement organizations, representatives of specified medical and health-related associations, an individual in recovery from fentanyl or opioid abuse, and representatives of organizations that provide services to homeless individuals and individuals who misuse fentanyl or other illicit substances that may contain fentanyl, among others.

This bill requires the task force's first meeting to be held no later than March 1, 2024 and requires the task force to meet at least once every two months. The task force is required to submit an interim report to the Governor and the Legislature on or before January 1, 2025, and a final report must be submitted on or before July 1, 2025. This bill sunsets on January 1, 2026 and contains an urgency clause.

This bill is substantially similar to a bill this committee passed on March 14, 2023. SB 19 (Seyarto) would create the Anti-Fentanyl Abuse Task Force, a 22-member task force made up of many of the same or similar types of representatives as those found in AB 33. Many of the responsibilities of the task force outlined in AB 33 are shared by those in the SB 19 task force. Both task forces also have the same deadline for submitting a final report to the Governor and Legislature.

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