

# **WEST VIRGINIA LEGISLATURE**

**2024 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 5319**

BY DELEGATES KELLY, HOTT, WARD, KUMP,

FEHRENBACHER, MALLOW, HOLSTEIN, PINSON,

SHAMBLIN, KIRBY, AND WESTFALL

[Originating in the Committee on the Judiciary;

Reported on February 12, 2024]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §61-5-17b, all relating to creating the offense of exposing a law-enforcement  
3 officer, probation officer, parole officer, courthouse security officer, correctional officer, the  
4 State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical  
5 service personnel to fentanyl; creating the offense of exposing a law-enforcement officer,  
6 probation officer, parole officer, courthouse security officer, correctional officer, the State  
7 Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service  
8 personnel to fentanyl causing death; creating the offense of exposing a law-enforcement  
9 officer, probation officer, parole officer, courthouse security officer, correctional officer, the  
10 State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical  
11 service personnel to fentanyl causing bodily injury; requiring proof of a violation of this  
12 code; establishing criminal penalties; requiring proof of exposure; and providing  
13 definitions.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.**

**§61-5-17b. Exposing a person to fentanyl; penalties.**

1 (a) Notwithstanding any provision of this code to the contrary, any person who commits  
2 any act in violation of any of the provisions of §60A-4-401 et seq. of this code or any provision of  
3 §61-5-8 of this code and thereby proximately causes the death of another person as a result of  
4 exposure to fentanyl used or possessed in the commission of the act is guilty of a felony, and  
5 upon conviction thereof, shall be imprisoned in a state correctional facility for a term of 15 years  
6 to life.

7 (b) Notwithstanding any provision of this code to the contrary, any person who commits  
8 any act in violation of any of the provisions of §60A-4-401 et seq. of this code or any provision of  
9 §61-5-8 of this code and thereby proximately causes the bodily injury of another person as a result  
10 of exposure to fentanyl used or possessed in the commission of the act is guilty of a felony, and

11 upon conviction thereof, shall be imprisoned in a state correctional facility for a term of not less  
12 than three nor more than 15 years.

13 (c) For purposes of this section:

14 (1) "Bodily injury" means substantial physical pain, illness, or any impairment of physical  
15 condition, including, but not limited to, loss of consciousness or other symptoms of a fentanyl  
16 overdose which result in the immediate administration of an opioid antagonist medication.

17 (2) "Death" means the death of any exposed person which ensues within one year as a  
18 proximate result of a bodily injury received in violation of this section.

19 (3) "Exposure" includes without limitation skin contact, inhalation, ingestion, or contact  
20 with a needlestick or a mucus membrane, including without limitation the mouth, eyes, or nose.  
21 Proof of exposure shall be based on a confirmed positive test for fentanyl administered by a  
22 medical professional immediately following the death or bodily injury of the exposed person.

23 (4) "Fentanyl" refers to the substance identified in §60A-2-206 of this code, and any analog  
24 or derivative thereof.

25 (d) The offenses set forth in this section shall be in addition to any other offenses set forth  
26 in this code.