



HOUSE REPUBLICAN STAFF ANALYSIS

Bill:	House File 595 (Formerly HSB 104)	House Committee:	PASSED on February 28 (14-7)
Committee:	Judiciary	House Floor:	
Floor Manager:	Rep. P. Thompson	Senate Floor:	
Date:	March 21, 2023	Governor:	
Staff:	Amanda Wille (1-5230)		

Controlled Substances

- Increases penalties for fentanyl related crimes
- Increases penalties for those who manufacture or possess controlled substances around a minor
- Enhances the sentence for a person who causes the death of another through controlled substance use and doesn't seek medical help.
- Expands who can provide and possess opioid antagonists
- **Fiscal Note** – Division I fiscal impact can't be calculated. Division II has no fiscal impact

Section by Section Analysis

Division I

Manufacture, Delivery, or Possession of a Controlled Substance

Expanded penalties

Increases penalties for the manufacture, delivery or possession of fentanyl related substances:

- More than 50 grams- Class "B" felony- No more than 50 years in prison and a fine of no more than one million
- More than 5 grams but less than 50- Class "B" felony- no more than 25 years in prison and a fine between \$5,000 and \$100,000
- 5 grams or less Class "C" felony- no more than 10 years in prison and a fine between \$1,000 and \$50,000

Enhanced Sentencing

Enhances sentences for those who cause death or serious injury while manufacturing, delivering or possessing a controlled substance and not seeking medical assistance for a drug related overdose

- Death- three times the term the sentence. No deferred judgement or suspended sentence.
- Serious bodily injury- two times the sentence. No deferred judgement or suspended sentence

If a minor is involved, even if the substance is a counterfeit, simulated or imitation controlled substance, the penalty shall be two times that imposed by law. No deferred judgement or suspended sentence.
Manufacture, Delivery, or Possession of a Controlled Substance

An adult who manufactures any controlled substance in the presence of a minor shall be sentenced to up to two times the term otherwise imposed. A second or subsequent offense is a class "A" felony.

An adult who provides a controlled substance to a minor will be sentenced to two times the term imposed by law. No deferred judgement or suspended sentence. A second or subsequent offense is a class "A" felony.

Division II- Receipt, Provisions, and Administration of Opioid Antagonists

This division expands who can provide an opioid antagonist (commonly called Narcan)

A licensed healthcare provider may prescribe an opioid antagonist to a secondary distributor (law enforcement agency, EMS program, fire department, school district, health care provider, licensed behavioral health provider, county health department, DHHS)

A pharmacist may provide an opioid antagonist in the name of a secondary distributor and both parties have liability protection.

Secondary distributors and pharmacist are granted immunity arising from injury resulting from using an opioid antagonist.

Secondary distributors can have a supply of opioid antagonists and replace them upon expiration.

When an opioid antagonist is provided to an individual the secondary distributor must provide written instructions including substance use referral contact information.

Opioid antagonists can be given to individuals who are in a position to assist another.

Other opioid antagonists for overdoses reversals may be provided to patients older than 18.

Amendment Analysis

H-1134- Srinivas

Current law qualifies hypodermic needles and fentanyl test strips as drug paraphernalia. The amendment makes these two items legal for anyone to possess.

H- 1135- P. Thompson

Ensures that if a person causes death or serious injury to another while manufacturing or delivering a controlled substance the enhanced penalty applies. Language clarification assist prosecutors in proving case.

H- 1136- Lohse, P Thompson, Wilburn

Expands who can have an opioid antagonist in division III. Community-based organizations and first responders would be included.

Allows a person in a position to assist to distribute an opioid antagonist to any individual.

The amendment also allows the identity of the person receiving an opioid antagonist to be anonymous.