



WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

DATE May 20, 2025
TO Joint Judiciary Committee
FROM Clarissa Nord, Legislative Editor
SUBJECT Fentanyl-Related Offenses in Western States

This memorandum provides an overview of legislation introduced or enacted in western states to address fentanyl-related offenses. This memorandum is not intended to serve as a comprehensive summary of all fentanyl-related laws, but rather a selection of states to help facilitate the Committee's study.¹ Other states have generally considered imposing (or have enacted) enhanced penalties for offenses related to the possession, distribution, and trafficking of fentanyl, as well as for drug-induced homicide, and drug delivery resulting in death.

Approved Interim Topic

Priority No. 3: Fentanyl and Controlled Substances

The Committee will examine issues concerning fentanyl in Wyoming, including trafficking crimes and other fentanyl-related offenses. The Committee will consider whether additional resources and changes to Wyoming's controlled-substances laws are needed to better address fentanyl crimes and trafficking.

Fentanyl Trafficking and Distribution Offenses

Fentanyl, a synthetic opioid approved by the United States Food and Drug Administration for pain management and anesthesia, is significantly more potent than other drugs, including morphine and heroin.² Fentanyl is approximately 100 times more potent than morphine and 50 times more potent than heroin as a pain reliever.³ Since approximately 2011, the misuse of illegally manufactured fentanyl has led to an increase in fatal overdoses and law enforcement interactions.⁴

Recent legislative actions in several states, including Idaho, Montana, New Mexico, and Utah, have addressed the issue of fentanyl trafficking. This memorandum details Wyoming's law

¹ According to the National Conference of State Legislatures, during the 2023 legislative session, more than 600 fentanyl-related bills were introduced, resulting in the enactment of at least 103 laws. *See:*

<https://www.ncsl.org/state-legislatures-news/details/to-combat-overdose-crisis-states-bring-tough-new-laws-to-fight-against-fentanyl>.

² U.S. Drug Enforcement Administration, *Fentanyl* (last visited April 24, 2025).

³ *Id.*

⁴ Shilpa Patel, *Latest Efforts at Addressing the Fentanyl Crisis at the State & Federal Levels*, CSG West (August 20, 2024).

regarding fentanyl, along with the laws of several states that have established specific penalties for fentanyl trafficking. This memorandum also includes information on states currently considering legislation to classify and penalize fentanyl-related offenses.

Wyoming

Wyoming law (just as federal law does) classifies fentanyl as a Schedule II substance.⁵ Wyoming law prohibits the manufacture, delivery, or possession with intent to deliver (among other substances) Schedule II substances.⁶ A conviction for this offense results in a felony punishable by imprisonment for not more than ten years, a fine not to exceed \$10,000, or both.⁷ A person who possesses fentanyl (along with other Schedule I or II drugs) in an amount exceeding that set forth in statute is guilty of a felony punishable by imprisonment for not more than seven years, a fine not to exceed \$15,000, or both.⁸

Wyoming law contains one additional express mention of fentanyl in the offense of endangering children; a person who knowingly and willfully causes a child to absorb, inhale, or ingest fentanyl; remain in a room where fentanyl is being manufactured or sold; or enter and remain in a room where fentanyl is stored or manufactured is guilty of a felony punishable by imprisonment for up to five years, a fine not to exceed \$5,000, or both.⁹

Idaho

In 2024, Idaho established mandatory minimum sentences for fentanyl trafficking. The legislative intent behind the law recognizes that fentanyl trafficking is a significant problem in Idaho, resulting in the loss of life, personal injury, and property theft.¹⁰ Under Idaho statute, individuals who knowingly manufacture, deliver, import, or possess four grams or more of fentanyl or its derivatives, including mixtures or pill forms, are subject to separate penalties.¹¹ The law defines “trafficking in fentanyl” as a felony offense with tiered penalties based on the amount involved:

- An individual found in possession of between four and fourteen grams of fentanyl (or 100 pills or more but fewer than 250 pills) is subject to a mandatory minimum sentence of three years in prison and a \$10,000 fine.
- If an individual possesses between 14 and 28 grams of fentanyl (or 250 pills or more but fewer than 500 pills) they are required to serve a mandatory minimum sentence of five years and a \$15,000 fine.
- An individual who possesses 28 grams or more of fentanyl (or more than 500 pills) must face a mandatory minimum sentence of ten years in prison and a \$25,000 fine.¹²

⁵ W.S. 35-7-1016(a)(vii).

⁶ W.S. 35-7-1031(a).

⁷ W.S. 35-7-1031(a)(ii).

⁸ W.S. 35-7-1031(c)(ii). The threshold amounts depend on the form of the substance; for example, for pills or capsule form, no more than three grams; the amount is the same for powder or crystalline form. W.S. 35-7-1031(c)(i).

⁹ W.S. 6-4-405.

¹⁰ **2024 Idaho Sess. Laws Ch.4, § 1.**

¹¹ Idaho Code § 37-2732D(a).

¹² Idaho Code § 37-2732D(a)(1) through (3).

Trafficking fentanyl carries a maximum penalty of life imprisonment and a \$100,000 fine.¹³ In addition, a second conviction results in a mandatory minimum sentence twice that of the first conviction.¹⁴ Sentences cannot be suspended or deferred, and parole is not available before serving the mandatory minimum.¹⁵ Those who conspire or solicit others to traffic fentanyl are subject to the same penalties.¹⁶

Idaho also created the crime of drug-induced homicide, specifying that an individual is guilty of a felony if they unlawfully provide a controlled substance to another person who subsequently dies from its use.¹⁷ This offense carries a penalty of up to life imprisonment and a fine of up to \$25,000.¹⁸

Montana

In 2023, Montana established mandatory minimum sentences for the distribution of fentanyl.¹⁹ The law prescribes specific penalties for individuals convicted of the criminal distribution of fentanyl and its derivatives:

- Distributing more than 100 pills or over ten grams of fentanyl carries a minimum sentence of two years and up to 40 years of imprisonment, and a maximum fine of \$50,000.²⁰
- The first two years of the sentence cannot be suspended or deferred,²¹ and parole is not available during this period.²²

For most other dangerous drugs included under Montana statute, individuals convicted of distribution face imprisonment for up to 20 years, and a fine of \$50,000, or both.²³ Accordingly, Montana's approach to the distribution of fentanyl is more stringent. Practitioners²⁴ and their supervised agents, acting within the scope of professional practice are exempt from the requirements of the statute.

New Mexico

During the 2025 legislative session, 2025 House Bill 274 was introduced in the New Mexico House of Representatives, which proposed classifying fentanyl trafficking as a first-degree felony punishable by life imprisonment, including for first-time offenders.²⁵ The bill would have also imposed enhanced penalties for trafficking offenses that occur in drug-free school zones, making

¹³ Idaho Code § 37-2732D(a)(4).

¹⁴ Idaho Code § 37-2732D(b).

¹⁵ Idaho Code § 37-2732D(c).

¹⁶ Idaho Code § 37-2732D(d).

¹⁷ Idaho Code § 37-2734D(1).

¹⁸ Idaho Code § 37-2734D(2).

¹⁹ **2023 Mont. Laws Ch. 543.**

²⁰ Mont. Code Ann. § 45-9-103(3).

²¹ According to Montana Code, courts have the discretion to deviate from mandatory minimum sentences under certain conditions. These include cases where the offender was a minor, had significantly impaired mental capacity (excluding voluntary intoxication), acted under substantial duress, or had limited involvement in the offense as an accomplice; Mont. Code Ann. § 46-18-222(1) through (4).

²² Mont. Code Ann. § 45-9-103(3).

²³ Mont. Code Ann. § 45-9-103(1).

²⁴ A "practitioner" refers to licensed medical professionals, researchers, pharmacies, or institutions authorized to manage dangerous drugs as part of their professional practice or research; Mont. Code Ann. § 50-32-101(24)(a) through (c).

²⁵ **H.B. 274, 57th Leg., 1st Sess. (N.M. 2025).**

them first-degree felonies. The Speaker of the New Mexico House of Representatives referred the bill to the House Consumer and Public Affairs Committee on February 5, 2025, where it was subsequently tabled on March 6, 2025.²⁶

The New Mexico House of Representatives also considered 2025 House Bill 16, which proposed increased penalties for fentanyl trafficking.²⁷ The bill specified that if a court or jury finds that an individual possessed specific quantities of fentanyl related to a trafficking offense, the sentence may be increased by up to three years for possessing between 100 to 500 pills or 10 to 50 grams of fentanyl powder. The sentence could be increased by up to five years for possessing more than 500 pills or more than 50 grams of fentanyl powder, or for coordinating or directing others to engage in fentanyl trafficking.

The House Government, Elections and Indian Affairs Committee approved 2025 House Bill 16 on February 7, 2025, and it was re-referred to the House Judiciary Committee.²⁸ The House Judiciary Committee did not take any action on the bill, and the New Mexico Legislature adjourned on March 22, 2025 before the bill could advance in the legislative process.

Utah

The Utah Legislature recently enacted 2025 House Bill 87 to create a criminal offense for fentanyl trafficking.²⁹ Effective May 7, 2025, individuals involved in the manufacturing, distribution, or possession with the intent to distribute 100 grams or more of fentanyl or its derivatives will face first-degree felony charges.³⁰ A conviction carries a potential prison sentence ranging from five years to life and could receive a fine up to \$10,000.³¹

Additionally, the Utah law restricts judicial discretion by prohibiting courts from granting probation, suspending the sentence, ordering hospitalization, or reducing the offense classification if the action would result in shortening the individual's indeterminate prison sentence.³² There are specific circumstances under which the court may defer the imposition of a prison sentence including if:

- The court explains on the record that doing so serves the interests of justice; and
- The court determines that the individual does not pose a significant public safety risk.³³

The court must additionally order the individual to complete probation supervised by the Utah Division of Adult Probation and Parole.³⁴ The sentencing restrictions do not apply if the individual was under the age of 18 at the time of the offense and would have qualified to proceed in juvenile court if the case was delayed.³⁵

²⁶ **H.B. 274, 57th Leg., 1st Sess. (N.M. 2025).**

²⁷ **H.B. 16, 57th Leg., 1st Sess. (N.M. 2025).**

²⁸ *Id.*

²⁹ **2025 Utah Laws Ch. 198.**

³⁰ Utah Code Ann. § 58-37-8.1(2).

³¹ **Utah Courts, Criminal Penalties (last visited April 24, 2025).**

³² Utah Code Ann. § 58-37-8.1(4).

³³ Utah Code Ann. § 58-37-8.1(5)(a).

³⁴ Utah Code Ann. § 58-37-8.1(5)(b).

³⁵ Utah Code Ann. § 58-37-8.1(6).

Fentanyl Possession Offenses

Most states categorize fentanyl as a controlled substance and apply the same penalties for its illegal possession as for other drugs.³⁶ Put differently, these states (including Wyoming) generally do not distinguish fentanyl from other controlled substances under the law. At least sixteen states have one fentanyl-specific criminal provision in place pertaining to fentanyl possession.

Colorado previously enacted a fentanyl-specific law that enforces stricter penalties for possession and distribution. In 2025, Hawaii introduced a bill to establish mandatory prison sentences for fentanyl possession. This memorandum outlines the legislative approaches of Colorado and Hawaii in addressing the specific risks posed by fentanyl.

Colorado

In 2022, the Colorado Legislature enacted the Fentanyl Accountability and Prevention Act to establish stricter penalties for fentanyl-related offenses, differentiating those offenses from offenses involving other controlled substances.³⁷ The legislative purpose of the provisions governing fentanyl possession and distribution is to mitigate the significant health risks presented by the illicit distribution of synthetic opioids, including fentanyl and its analogs, within the state of Colorado.³⁸

Under Colorado statute, unlawfully distributing, manufacturing, dispensing, or selling fentanyl results in a:

- Level 1 drug felony for amounts more than 50 grams, which is subject to aggravated range penalties if resulting in death;
- Level 2 drug felony for amounts more than four grams, but less than or equal to 50 grams; and
- Level 3 felony if the amount is four grams or less.³⁹

Possession of one to four grams of a controlled substance containing fentanyl is classified as a Level 4 drug felony,⁴⁰ unless the defendant presents credible evidence of a mistaken belief that the substance did not contain fentanyl.⁴¹ Additionally, possessing a drug containing over 60% fentanyl is considered a Level 2 drug felony.⁴² Lesser offenses become a Level 1 drug felony if fentanyl use leads to a fatality, the drug originates from outside Colorado, or the individual possesses equipment for producing fentanyl pills or tablets.⁴³

Hawaii

During the 2025 legislative session, a bill was introduced in the Hawaii House of Representatives to establish mandatory minimum prison terms for individuals convicted of offenses involving the

³⁶ **Legislative Analysis and Public Policy Association, *Fentanyl-Specific Criminal Provisions: Summary of State Laws (April 16, 2025)*.**

³⁷ **2022 Colo. Sess. Laws Ch. 225.**

³⁸ *Id.*

³⁹ Colo. Rev. Stat. § 18-18-405.

⁴⁰ Colo. Rev. Stat. § 18-18-403.5(2.5)(a)(I). **Appendix A** provides a table outlining sentencing guidelines for drug felonies: *See: https://cdhs.colorado.gov/sites/cdhs/files/2021-05/felony_sentencing_guidelines.pdf*.

⁴¹ Colo. Rev. Stat. § 18-18-403.5(2.5)(b).

⁴² Colo. Rev. Stat. § 18-18-403.5(2.7)(a).

⁴³ Colo. Rev. Stat. § 18-18-405 and 407.

possession of fentanyl or methamphetamine.⁴⁴ The bill is a direct response to the state’s growing methamphetamine and fentanyl crisis, which has led to an increase in overdose deaths. Specifically, for individuals convicted of possessing methamphetamine or fentanyl, the bill would require a mandatory minimum sentence ranging from one year for Class C felonies to 20 years for Class A felonies.⁴⁵

Furthermore, the bill proposes that certain drug offenses involving methamphetamine and fentanyl would not be eligible for probation, distinguishing these offenses from others.⁴⁶ However, nonviolent offenders convicted of other drug-related offenses may still qualify for probation if they meet specific criteria, such as completing a substance abuse assessment and participating in a treatment program. The Speaker of the Hawaii House of Representatives referred 2025 House Bill 917 to the House Judiciary and Hawaiian Affairs Committee on January 23, 2025, but the bill has not progressed further. The Hawaii State Legislature is scheduled to adjourn on May 2, 2025.⁴⁷

⁴⁴ **H.B. 917, 33rd Leg., Reg. Sess. (Haw. 2025).**

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ **Hawaii Legislative Reference Bureau, 2025 Session Calendar, (December 17, 2024).**

Appendix A: Colorado Sentencing Guidelines for Drug Felonies

Table 1. Sentencing Scheme for Drug Felonies Committee on or after October 1, 2013.

| Offense Level | Presumptive Range | Aggravated Range* | Mandatory Parole |
|---------------------|--|--|------------------|
| Level 1 Drug Felony | 8 to 32 years \$5,000 to \$1,000,000 | — | 3 years |
| Level 2 Drug Felony | 4 to 8 years \$3,000 to \$750,000 | 8 to 16 years \$3,000 to \$750,000 | 2 years |
| Level 3 Drug Felony | 2 to 4 years \$2,000 to \$500,000 | 4 to 6 years \$2,000 to \$500,000 | 1 year |
| Level 4 Drug Felony | 6 months to 1 year \$1,000 to \$100,000 | 1 to 2 years \$1,000 to \$1,000,000 | 1 year |

**The presence of certain aggravating circumstances requires sentencing under the aggravated scheme. Aggravating factors are: the defendant was on parole for another felony; the defendant was under confinement, in prison, or in any correctional facility as a convicted felon or was an escapee; the defendant was on probation for or on bond while awaiting sentencing following revocation of probation for a delinquent act that, if committed by an adult, would constitute a felony; whether the offense was part of a pattern of manufacturing, selling, dispensing, or distributing controlled substances; the offender used, displayed, or possessed a deadly weapon in the course of the offense; or the offender used a child as his or her agent during the course of the offense (Section 18-18-407, C.R.S.). Section 18-1.3-401.5, C.R.S., provides several other circumstances in which an offender must or may be sentenced to a term of more than the presumptive range or be disqualified from receiving certain penalties.*

Source: [Colorado Department of Human Services, Crime Classification Guide – Drug Felonies](#) (last visited April 25, 2025).