

## 50-STATE SURVEY

# STATE FENTANYL PENALTY ENHANCEMENTS: A COMPREHENSIVE LEGAL REVIEW

States often have complex laws penalizing controlled substance possession, distribution, sale, manufacture, trafficking, and similar actions. Frequently, penalties for violations of these laws are dependent upon which substance is involved and the weight or amount of the substance in question. Many states have recently enacted laws that provide for higher penalties or lower thresholds to trigger penalties for fentanyl than other drugs.

To create the table below, trained legal researchers searched for all laws that impose criminal penalties for the possession, distribution, or trafficking of controlled substances generally and fentanyl specifically that were in effect as of July 1, 2025. The table notes the characteristics of all laws that impose more stringent penalty provisions where the violation involves fentanyl. The table notes the citation of the relevant law, the date it became effective, and the relevant language. It also describes the minimum and maximum penalties that may be imposed for violations of the law, and how the law differs from laws that apply to other substances.

We found that 33 states distinguish fentanyl by name or category from other drugs by higher penalties or lower quantity thresholds, either by directly imposing a different penalty or by providing a sentence enhancement when the substance is fentanyl. All but 3 states added fentanyl-specific language in 2017 or later.

The information provided in this document does not constitute legal advice or legal representation. The Network for Public Health Law's Harm Reduction Legal Project provides free technical legal and policy assistance to individuals, governmental, and non-governmental organizations, and can be contacted at [harmreduction@networkforphl.org](mailto:harmreduction@networkforphl.org). For legal advice, please consult an attorney in your state.

## CHARACTERISTICS OF STATE LAWS WITH FENTANYL-SPECIFIC CRIMINAL PENALTIES FOR DRUG CRIMES

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
Alabama	<a href="#">Ala. Code § 13A-12-231(13)</a>	July 1, 2023 <sup>2</sup>	“Any person...who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, one gram or more of Fentanyl or any synthetic controlled substance Fentanyl analogue...is guilty of a felony.”	1-2g: 3/- 2-4g: 10/- 4-8g: 25/- 8g+: Life <sup>3</sup>	Added minimum penalties for these smaller amounts of fentanyl that do not exist for other drugs.
	<a href="#">Ala. Code § 13A-12-231(13)</a>	April 6, 2018 <sup>4</sup>	“Any person...who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, one gram or more of Fentanyl or any synthetic controlled substance Fentanyl analogue...is guilty of a felony.”	Fines only <sup>5</sup>	Fentanyl is punished the same as other opioids >4g, but these additional fines were for lesser amounts of fentanyl that are not present for other opioids.
	<a href="#">Ala. Code § 13A-12-211</a>	April 6, 2018 <sup>6</sup>	“A person commits the crime of unlawful possession with intent to distribute a controlled substance...he or she knowingly possesses...[m]ore than one-half gram, but less than one gram, of Fentanyl or any synthetic controlled substance Fentanyl analogue.”	2/20 <sup>7</sup>	Larger amounts of fentanyl are punished the same as other opioids; the .5-1g punishment is unique to fentanyl.
Alaska	-	-	-	-	-
Arizona	<a href="#">Ariz. Rev. Stat. Ann. § 13-3408(f)</a>	September 14, 2024	“If the person is convicted of a violation of [possession for sale, sale, or transport of a narcotic drug] and the violation involves the	5/15 <sup>8</sup>	For all other narcotic drugs besides fentanyl, violation of this provision is

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
			sale to another person of fentanyl in an amount of at least two hundred grams, the person shall be sentenced as follows...”		a class 2, 3, or 4 felony, depending on the type of violation. <sup>9</sup>
Arkansas	<a href="#">Ark. Code. Ann. § 5-64-421</a>	July 28, 2021 <sup>10</sup>	“It is unlawful for a person to possess fentanyl. [...] it is unlawful for a person to possess fentanyl with the purpose to deliver fentanyl. [...] it is unlawful for a person to deliver fentanyl. [...] it is unlawful for a person to manufacture fentanyl.”	Possession: 3/10  Possession with purpose to deliver: 6/30  Delivery and manufacturing: 10/Life <sup>11</sup>	Law was created to separate out fentanyl possession and delivery crimes and provide harsher penalties.
	<a href="#">Ark. Code. Ann. § 5-64-440(c)(2)</a>	April 11, 2023 <sup>12</sup>	“It is unlawful for a person to engage in trafficking a controlled substance. [...]A person engages in trafficking a controlled substance if he or she possesses, possesses with the purpose to deliver, delivers, or manufactures a controlled substance by aggregate weight, including an adulterant or diluent, in the following amounts: [...]Fentanyl, one gram (1g) or more”	25/Life <sup>13</sup>	Trafficking a controlled substance is a Class Y felony (10 to 40 years or life); trafficking of fentanyl is an unclassified felony punishable by 25 to 60 years or life and a fine of \$1 million.
	<a href="#">Ark. Code. Ann. § 5-64-440(c)(2)</a>	July 28, 2021 <sup>14</sup>	“It is unlawful for a person to engage in trafficking a controlled substance. [...]A person engages in trafficking a controlled substance if he or she possesses, possesses with the purpose to deliver, delivers, or manufactures a controlled substance by aggregate weight,	10/Life <sup>15</sup>	Trafficking penalties for fentanyl kick in at 1g; heroin is 200g.

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			including an adulterant or diluent, in the following amounts: [...]Fentanyl, one gram (1g) or more”		
California	<a href="#">Cal. Health &amp; Safety Code § 11370.4</a>	January 1, 2024 <sup>16</sup>	“A person convicted of a violation of, or of a conspiracy to violate [drug laws] with respect to a substance containing ... fentanyl..., when the person knew of the substance’s nature or character as a controlled substance, shall receive an additional state prison term”	>1kg +3 >4kg +5 >10kg +10 >20kg +15 >40 +20 >80kg +25 <sup>17</sup>	This is a penalty enhancement that other substances do not carry.
Colorado	<a href="#">Colo. Rev. Stat. § 18-1.3-401.5</a>	July 1, 2022 <sup>18</sup>	Mandatory sentence for unlawful distribution, manufacturing, dispensing, or sale when, “the unlawful distribution, manufacturing, dispensing, or sale of the material, compound, mixture, or preparation weighed more than fifty grams and contained fentanyl [and] carfentanil”	Minimum of midpoint of presumptive range/ maximum of presumptive range <sup>19</sup>	Creates a penalty enhancement when the drug crime involves fentanyl.
	<a href="#">Colo. Rev. Stat. § 18-18-405</a>	July 1, 2022 <sup>20</sup>	“[I]t is unlawful for any person knowingly to manufacture, dispense, sell, or distribute, or to possess with intent to manufacture, dispense, sell, or distribute, a controlled substance.” [...] Level 1 drug felony if “the violation involves any material, compound, mixture, or preparation that weighs...[m]ore than fifty grams and contains fentanyl, carfentanil, benzimidazole opiate, or an analog thereof...[c]ommits a level 2 drug felony if...[t]he violation involves any material,	50g+: 8/32  4-50g: midpoint of presumptive range/16  ≤4g: midpoint of presumptive range/6  Drug felony 4: midpoint of	Other schedule I and II controlled substances, meth- amphetamine, ketamine, and cathinones have higher gram requirements than fentanyl for the same drug felony level.

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
			<p>compound, mixture, or preparation that weighs:...More than four grams, but not more than fifty grams, and contains fentanyl, carfentanil, benzimidazole opiate, or an analog thereof...commits a level 3 drug felony if the violation involves any material, compound, mixture, or preparation that weighs:...[n]ot more than four grams and contains fentanyl, carfentanil, benzimidazole opiate, or an analog thereof”</p>	<p>presumptive range/<sup>21</sup></p>	
	<p><a href="#">Colo. Rev. Stat. § 18-18-403.5</a></p>	<p>July 1, 2022<sup>22</sup></p>	<p>“Knowingly possessing...[a]ny material, compound, mixture, or preparation that weighs more than one gram and not more than four grams and contains any quantity of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof [is] a level 4 drug felony...[a]ny material, compound, mixture, or preparation that weighs not more than one gram and contains any quantity of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof [is] a level 1 drug misdemeanor”</p> <p>“[W]hen a defendant shows supporting evidence to establish that he or she made a reasonable mistake of fact and did not know that the controlled substance he or she possessed contained fentanyl, carfentanil, benzimidazole opiate, or an analog thereof...the matter shall be submitted to the finder of fact in the form of an interrogatory included in the verdict form.</p>	<p>≤1g: 6 months/ 18months<sup>23</sup></p> <p>Fentanyl &gt; 60%: midpoint of presumptive range/16</p> <p>1-4g: midpoint of presumptive range/<sup>24</sup></p>	<p>Mixtures with fentanyl have a lower gram requirement than other drugs and an overall higher penalty if the substance if more than 60% fentanyl.</p>

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
			<p>Should the finder of fact determine the defendant made such a reasonable mistake of fact, the defendant commits a level 1 drug misdemeanor.”</p> <p>“A person [possesses] any material, compound, mixture, or preparation that contains a quantity of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof...that is more than sixty percent of the total composition of the material, compound, mixture, or preparation, commits a level 2 drug felony.”</p>		
	<a href="#">Colo. Rev. Stat. § 18-18-407</a>	July 1, 2022	An offense can be enhanced to level 1 drug felony and considered a special offender if “[t]he defendant committed the violation and in the course of that violation, introduced or imported into the state of Colorado...any material, compound, mixture, or preparation that weighs more than four grams and contains fentanyl [or] carfentanil.”	8/32 <sup>25</sup>	This law creates a “special offender” status for various drug crimes; it takes less fentanyl to be given this status than other drugs.
Connecticut	-	-	-	-	-
Delaware	-	-	-	-	-
Florida	<a href="#">Fla. Stat. § 893.135</a>	October 1, 2022 <sup>26</sup>	“A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of: [Alfentanil, Carfentanil, Fentanyl, Sufentanil, fentanyl derivatives]”	7/30 <sup>27</sup>	Most other substances have a higher gram threshold, and the minimum sentences for fentanyl are higher.

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
	Fla. Stat. § 893.135	October 1, 2017 <sup>28</sup>	“A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of: [Alfentanil, Carfentanil, Fentanyl, Sufentanil, fentanyl derivatives]”	3/25 <sup>29</sup>	Most other substances have a higher gram threshold, and the minimum sentences for fentanyl are higher.
Georgia	-	-	-	-	-
Hawaii	-	-	-	-	-
Idaho	-	-	-	-	-
Illinois	<a href="#">720 Ill. Comp. Stat. Ann. 570/401(b-1)</a>	August 17, 2007 <sup>30</sup>	When a non-fentanyl violation occurs but the “controlled substance contains any amount of fentanyl, 3 years shall be added to the term of imprisonment imposed by the court, and the maximum sentence for the offense shall be increased by 3 years.”	3-year enhancement if fentanyl is mixed with another substance.	This sentence enhancement does not apply to other substances.
Indiana	<a href="#">Ind. Code § 35-48-4-1</a>	July 1, 2025 <sup>31</sup>	It is illegal to “knowingly or intentionally [manufacture; finance the manufacture of; deliver; or finance the delivery of, possess with intent to manufacture, finance the manufacture of; deliver; or finance the delivery of]” fentanyl. The offense is a Level 4 felony if...the drug is a fentanyl containing substance and the amount of fentanyl containing substance involved is less than one (1) gram.” [...]	5g+: 10/30 1-5g : 3/16 <1g : 2/12 <sup>33</sup>	Other drugs have higher threshold amounts.

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
			<p>‘[T]he offense is a Level 3 felony if...the drug is a fentanyl containing substance and the amount of fentanyl containing substance involved, aggregated over a period of not more than ninety (90) days, is at least one (1) gram but less than five (5) grams.’ [...]</p> <p>“The offense is a Level 2 felony if... the drug is a fentanyl containing substance and the amount of fentanyl containing substance involved, aggregated over a period of not more than ninety (90) days, is at least five (5) grams.”<sup>32</sup></p>		
	Ind. Code § 35-48-4-1	July 1, 2023 <sup>34</sup>	<p>“[T]he offense is a Level 4 felony if...the drug is a fentanyl containing substance and the amount of fentanyl containing substance involved, aggregated over a period of not more than ninety (90) days, is at least one (1) gram but less than three (3) grams.” [...]</p> <p>“[T]he offense is a Level 4 felony if...the drug is a fentanyl containing substance and the amount of fentanyl containing substance involved, aggregated over a period of not more than ninety (90) days, is at least three (3) grams but less than seven (7) grams” [...]</p> <p>‘[T]he offense is a Level 2 felony if...the drug is a fentanyl containing substance and the amount of fentanyl containing substance involved, aggregated over a period of not</p>	7g+: 10/30 3-7g: 3/16 1-3g: 2/12 <sup>35</sup>	Prior to this amendment, there was no fentanyl-specific provision.

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
			more than ninety (90) days, is at least seven (7) grams.”		
Iowa	<a href="#">Iowa Code Ann. § 124.401</a>	July 1, 2023 <sup>36</sup>	<p>“Violation of this subsection...is a class “B” felony...[m]ore than fifty grams of a mixture or substance containing a detectable amount of fentanyl or any fentanyl-related substance.”</p> <p>“Violation of this subsection...is a class “C” felony...[f]ive grams or less of a mixture or substance containing a detectable amount of fentanyl or any fentanyl-related substance.”</p>	<p>50g+: -/50 5-50g: -/25 ≤5g: -/10<sup>37</sup></p>	Higher threshold amounts for other substances.
Kansas	<a href="#">Kan. Stat. Ann. § 21-5705</a>	July 1, 2024 <sup>38</sup>	<p>“It shall be unlawful for any person to distribute or possess with the intent to distribute...[o]piates, opium or narcotic drugs... violation of subsection (a) with respect to material containing any quantity of a fentanyl-related controlled substance, ..., or an analog thereof, is a [felony]<sup>39</sup></p>	32 months/308 months <sup>40</sup>	Higher threshold amounts for other substances.
		July 1, 2023 <sup>41</sup>	<p>“It shall be unlawful for any person to manufacture any controlled substance or controlled substance analog...Violation or attempted violation of subsection (a) is a ...drug severity level 1 felony if the controlled substance...is a fentanyl-related controlled substance.”</p>	308 months <sup>42</sup>	Lower severity level (harsher penalty) for all other drugs except methamphetamine.

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
	<a href="#">Kan. Stat. Ann. § 21-6805(h)(1)</a>	July 1, 2024 <sup>43</sup>	“The sentence for a violation of the [law] with respect to material containing any quantity of a fentanyl-related controlled substance shall be presumed imprisonment and shall be two times the maximum duration of the presumptive term of imprisonment...[for manufacturing, and for distribution] if the violation is classified as a drug severity level 1, 2 or 3 felony.”	Presumed imprisonment that is two times the maximum duration of the presumptive term of imprisonment for violations of unlawful distribution and manufacture offenses involving fentanyl related controlled substances.	No similar enhancement for other drugs; originally sentencing enhancement only applied to manufacturing crimes.
	Kan. Stat. Ann. § 21-6805(h)(1)	July 1, 2023 <sup>44</sup>	“The sentence for a violation of the [law] with respect to material containing any quantity of a fentanyl-related controlled substance shall be presumed imprisonment and shall be two times the maximum duration of the presumptive term of imprisonment...[for manufacturing] if the violation is classified as a drug severity level 1, 2 or 3 felony.”	Presumed imprisonment that is two times the maximum duration of the presumptive term of imprisonment for violations of unlawful manufacture offenses involving	No similar enhancement for other drugs.

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
				fentanyl related controlled substances.	
Kentucky	<a href="#">Ky. Rev. Stat. Ann. § 218A.1412</a>	June 29, 2017 <sup>45</sup>	A person is guilty of trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in...[a]ny quantity of...fentanyl, carfentanil, or fentanyl derivatives.”	5/10 <sup>46</sup>	Changed from 2g+ to “any quantity”
	Ky. Rev. Stat. Ann. § 218A.1412	March 25, 2015 <sup>47</sup>	“(1) A person is guilty of trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in: b) Two (2) grams or more of heroin, fentanyl, or methamphetamine;”	5/10 <sup>48</sup>	First time fentanyl is mentioned in the law.
	<a href="#">Ky. Rev. Stat. Ann. § 218A.142</a>	July 14, 2022 <sup>49</sup>	“A person is guilty of aggravated trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in...Twenty-eight (28) grams or more of fentanyl; or...Ten (10) grams or more of carfentanil or fentanyl derivatives.”	10/20 <sup>50</sup>	Must serve 85% of sentence vs. 50% for heroin; not eligible for pretrial diversion.
	Ky. Rev. Stat. Ann. § 218A.142	June 29, 2017 <sup>51</sup>	“A person is guilty of aggravated trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in...(b) Twenty-eight (28) grams or more of fentanyl”	10/20 <sup>52</sup>	Amount for fentanyl aggravated trafficking is 28g v. 100g for heroin.
	<a href="#">Ky. Rev. Stat. Ann. § 218A.1410</a>	July 14, 2022 <sup>53</sup>	“A person is guilty of importing...carfentanil, fentanyl, or fentanyl derivatives when he or she knowingly and unlawfully transports any quantity of...carfentanil, fentanyl, or fentanyl derivatives into the Commonwealth by any	5/10 <sup>55</sup>	Must serve 85% of sentence vs. 50% for heroin; not eligible for pretrial diversion.

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			means with the intent to sell or distribute the...carfentanil, fentanyl, or fentanyl derivatives." <sup>54</sup>		
	Ky. Rev. Stat. Ann. § 218A.1410	June 29, 2017 <sup>56</sup>	"A person is guilty of importing...carfentanil, fentanyl, or fentanyl derivatives when he or she knowingly and unlawfully transports any quantity of...carfentanil, fentanyl, or fentanyl derivatives into the Commonwealth by any means with the intent to sell or distribute the...carfentanil, fentanyl, or fentanyl derivatives." <sup>57</sup>	5/10 <sup>58</sup>	Fentanyl first appears in the law, treated the same as heroin.
	<a href="#">Ky. Rev. Stat. Ann. § 218A.1411</a>	June 29, 2017	"A person is guilty of trafficking in a misrepresented controlled substance when he or she knowingly and unlawfully sells or distributes any Schedule I controlled substance, carfentanil, or fentanyl while misrepresenting the identity of the Schedule I controlled substance, carfentanil, or fentanyl being sold or distributed as a legitimate pharmaceutical product."	1/5 <sup>59</sup>	Treated the same as schedule I substances.
Louisiana	<a href="#">La. Stat. Ann. § 40:967</a>	August 1, 2023 <sup>60</sup>	"It shall be unlawful for any person knowingly or intentionally...To produce, manufacture, distribute, or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance or controlled substance analogue classified in Schedule II [or] [t]o create, distribute, or possess with intent to distribute, a	Manufacture/ distribution: <28 g: 5/40 28- 250 g: 7/40 250g+: Life <sup>62</sup>  Possession: <2g: 2/4 2-28g: 2/10	Penalties harsher than other drugs.

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
			<p>counterfeit controlled dangerous substance classified in Schedule II.</p> <p>Any person who violates [this section] with respect to...[f]entanyl or a mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues, shall be punished as follows.”</p> <p>“Possession. It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance as classified in Schedule II...with respect to...Fentanyl or a mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues”<sup>61</sup></p>	28g+ is subject to the penalties for manufacture/distribution <sup>63</sup>	
	La. Stat. Ann. § 40:967	August 1, 2018 <sup>64</sup>	“It shall be unlawful for any person knowingly or intentionally...To produce, manufacture, distribute, or dispense or possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance or controlled substance analogue classified in Schedule II [or] [t]o create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance classified in Schedule II.	<p>Distribution: 5/40<sup>67</sup></p> <p>Possession: &lt;2g: 2/4 2-28g: 2/10 28g+ is subject to the penalties for manufacture/distribution<sup>68</sup></p>	<p>Distribution: Higher penalty than all other substances.</p> <p>Possession: Higher penalty than all other substances except phencyclidine.</p>

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
			<p>Any person who violates [this section] with respect to...[f]entanyl or a mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues, upon conviction for any amount, shall be imprisoned at hard labor for not less than five years nor more than forty years and may, in addition, be required to pay a fine of not more than fifty thousand dollars.”<sup>65</sup></p> <p>“Possession. It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance as classified in Schedule II...with respect to...Fentanyl or a mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues”<sup>66</sup></p>		
Maine	-	-	-	-	-
Maryland	<a href="#">Md. Code Ann., Crim. Law § 5-608.1</a>	May 25, 2017 <sup>69</sup>	<p>“A person may not knowingly violate § 5-602 [relating to distribution and intent to distribute controlled substances] of this subtitle with:</p> <p>(1) a mixture that contains heroin and a detectable amount of fentanyl or any analogue of fentanyl; or</p> <p>(2) fentanyl or any analogue of fentanyl.”</p>	-/10 <sup>70</sup>	Additional sentence on top of a sentence for narcotic drug possession. <sup>71</sup>

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	<a href="#">Md. Code Ann., Crim. Law § 5-612</a>	June 1, 2018 <sup>72</sup>	“A person may not manufacture, distribute, dispense, or possess...5 grams or more of fentanyl...28 grams or more of any mixture containing a detectable amount...of fentanyl” <sup>73</sup>	5/20 <sup>74</sup>	Fentanyl has the lowest quantity amount compared to other listed substances in the section.
Massachusetts	<a href="#">Mass. Gen. Laws ch. 94C, § 32E</a>	April 13, 2018 <sup>75</sup>	“Any person who trafficks in fentanyl or any derivative of fentanyl by knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or dispense or by bringing into the commonwealth [fentanyl or carfentanil is guilty of a crime] <sup>76</sup>	3.5/20 <sup>77</sup>	Lower gram threshold than other substances in the section and different sentencing from other substances, amendment added minimum penalty.
	Mass. Gen. Laws ch. 94C, § 32E	February 22, 2016 <sup>78</sup>	“(c ½ ) Any person who trafficks in fentanyl, by knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or dispense or by bringing into the commonwealth a net weight of more than 10 grams of fentanyl shall be punished by a term of imprisonment in state prison for not more than 20 years. For purposes of this subsection, “fentanyl” shall include any derivative of fentanyl and any mixture containing more than 10 grams of fentanyl or a derivative of fentanyl.”	-/20 <sup>79</sup>	Lower gram threshold than other substances in the section and different sentencing from other substances.
Michigan	-	-	-	-	-
Minnesota	<a href="#">Minn. Stat. § 152.023</a>	August 1, 2023 <sup>80</sup>	“A person is guilty of controlled substance crime in the third degree if...on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures	5g+: -/20 <sup>81</sup>	Penalty is triggered at 5g for fentanyl v. 3g for heroin.

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			of a total weight of ten grams or more containing a narcotic drug other than heroin or fentanyl...on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures of: (i) a total weight of three grams or more containing heroin; or (ii) a total weight of five grams or more... containing fentanyl”		
Mississippi	-	-	-	-	-
Missouri	<a href="#">Mo. Rev. Stat. § 579.065</a>	August 28, 2020 <sup>82</sup>	“A person commits the offense of trafficking drugs in the first degree if...such person knowingly distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce...More than ten milligrams of [fentanyl, carfentanil, derivatives, and mixtures].” <sup>83</sup>	20mg+: 10/Life 20mg+: 5/15 <sup>84</sup>	Lower quantity threshold than other substances.
	<a href="#">Mo. Rev. Stat. § 579.068</a>	August 28, 2020 <sup>85</sup>	“A person commits the offense of trafficking drugs in the second degree if...such person knowingly possesses or has under his or her control, purchases or attempts to purchase, or brings into this state...More than ten milligrams of [fentanyl, carfentanil, derivatives, and mixtures].” <sup>86</sup>  “The offense of trafficking drugs in the second degree is a class B felony if the quantity involved is...Twenty milligrams or	20mg+: 5/15 10-19mg: 3/10 <sup>88</sup>	Lower quantity threshold than other substances.

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
			more of [fentanyl, carfentanil, derivatives, and mixtures].” <sup>87</sup>		
Montana	<a href="#">Mont. Code Ann. § 45-9-101</a>	May 18, 2023 <sup>89</sup>	“A person convicted of criminal distribution of dangerous drugs that involves distribution of fentanyl, carfentanil, sufentanil, alfentanil, or a fentanyl derivative, and who possessed or distributed a mixture containing one or more of these substances in a combined...weight greater than 10 grams in [any form] inclusive of any additives or cutting agents, shall be imprisoned in the state prison for a term of not less than 2 years...[t]he court may not suspend execution or defer imposition of the first 2 years of the sentence...and during the first 2 years of imprisonment, the offender is not eligible for parole.” <sup>90</sup>	2/40 <sup>91</sup>	Fentanyl and analogs are the only substances specifically mentioned in this sentencing statute.
	<a href="#">Mont. Code Ann. § 45-9-103</a>	May 18, 2023 <sup>92</sup>	“A person convicted of criminal possession with intent to distribute fentanyl shall be imprisoned in the state prison for a term of not less than 2 years or more than 40 years...[t]he court may not suspend execution or defer imposition of the first 2 years of the sentence...and during the first 2 years of imprisonment, the offender is not eligible for parole.” <sup>93</sup>	2/40 <sup>94</sup>	Fentanyl and analogs are the only substances specifically mentioned in this sentencing statute.
Nebraska	-	-	-	-	-
Nevada	<a href="#">Nev. Rev. Stat. Ann. § 453.3387</a>	October 1, 2023 <sup>95</sup>	“[A] person who knowingly or intentionally sells, manufactures, delivers or brings into this State or who is knowingly or	28-42g: 1/10 <sup>97</sup> 42-100g: 2/15 <sup>98</sup>	Created a new law singling out fentanyl for specific trafficking

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
			intentionally in actual or constructive possession of illicitly manufactured fentanyl, any derivative of fentanyl or any mixture which contains illicitly manufactured fentanyl or any derivative of fentanyl...shall be punished for a category B felony <sup>96</sup>		penalties at a lower quantity threshold than other drugs.
New Hampshire	-	-	-	-	-
New Jersey	-	-	-	-	-
New Mexico	-	-	-	-	-
New York	-	-	-	-	-
North Carolina	-	-	-	-	-
North Dakota	-	-	-	-	-
Ohio	-	-	-	-	-
Oklahoma	<a href="#">Okla. Stat. tit. 63, § 2-415</a>	Nov. 1, 2021 <sup>99</sup>	<p>“The provisions of the Trafficking in Illegal Drugs Act shall apply to persons convicted of violations with respect to the following substances...[f]entanyl and its analogs and derivatives.”</p> <p>“[I]t shall be unlawful for any person to... Knowingly distribute, manufacture, bring into this state or possess a controlled substance...in the quantities</p>	<p>≥1g: -/20</p> <p>≥5g: 2/Life<sup>101</sup></p>	Lower amount threshold for all drugs but LSD. Added penalty for 5g or more.

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
			specified...Possess a controlled substance...in the quantities specified.” <sup>100</sup>		
	Okla. Stat. tit. 63, § 2-415	April 4, 2019 <sup>102</sup>	<p>“The provisions of the Trafficking in Illegal Drugs Act shall apply to persons convicted of violations with respect to the following substances...[f]entanyl and its analogs and derivatives.”</p> <p>“[I]t shall be unlawful for any person to... Knowingly distribute, manufacture, bring into this state or possess a controlled substance...in the quantities specified... Possess a controlled substance...in the quantities specified...or... Use or solicit the use of services of a person less than eighteen (18) years of age to distribute or manufacture a controlled substance...in the quantities specified”</p>	Fines only <sup>103</sup>	Added fines for trafficking in fentanyl.
Oregon	<a href="#">Or. Rev. Stat. § 475.752(8)(a)</a>	July 27, 2023 <sup>104</sup>	“Unlawful possession of a controlled substance in Schedule II is a Class A misdemeanor if the person possesses one gram or more or five or more user units of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl.”	≥1g: Up to 364 days <sup>105</sup>	Harsher punishment than other Schedule II drugs. <sup>106</sup>
	<a href="#">Or. Rev. Stat. § 475.925</a>	July 19, 2021 <sup>107</sup>	“When a person is convicted of the unlawful delivery or manufacture of a controlled substance, the court shall sentence the person to a term of incarceration.” <sup>108</sup>	≥50g: 34-72 months ≥100g: 58-130 months <sup>109</sup>	Lower threshold than other drugs except ecstasy.

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
Pennsylvania	<a href="#">61 Pa. Cons. Stat. § 4103</a>	Feb. 18, 2020 <sup>110</sup>	“Drug trafficking [is a violation of] The Controlled Substance, Drug, Device and Cosmetic Act, where the controlled substance is...Fentanyl or a mixture containing Fentanyl, if the aggregate weight...is 10 grams or more...Carfentanil or a mixture containing carfentanil, if the aggregate weight... is one gram or more.” <sup>111</sup>	2-10g: 2/- <sup>112</sup>	Lower threshold than other drugs.
Rhode Island	-	-	-	-	-
South Carolina	<a href="#">S.C. Code Ann. § 44-53-370</a>	June 15, 2023 <sup>113</sup>	“It shall be unlawful for any person knowingly or intentionally to possess a controlled substance... A person who violates [this subsection] with respect to: . . .more than two grains of fentanyl or fentanyl-related substance is guilty of a felony . . .Any person who knowingly sells, manufactures, cultivates, delivers, purchases, or brings into this State...or who is knowingly in actual or constructive possession...four grams or more of any fentanyl or fentanyl-related substance...or four grams or more of any mixture containing fentanyl or any fentanyl-related substance, is guilty of a felony which is known as “trafficking in fentanyl”	Possession more than 2 grains of Fentanyl: -/5  Trafficking 4-14g: 7/25 14-28g: 25/- 28g+: 25/40 <sup>114</sup>	Fentanyl threshold amount smaller, with relatively greater enumerated penalties than other drugs.
South Dakota	-	-	-	-	-
Tennessee	-	-	-	-	-
Texas	<a href="#">Tex. Health &amp; Safety Code</a>	Sept. 1, 2023 <sup>115</sup>	“[A] person commits an offense if the person knowingly manufactures, delivers, or	<1g: 2-10 1-4g: 2-20	Penalties for fentanyl are slightly greater than for other drugs.

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
	<a href="#">Ann. § 481.1123</a>		possesses with intent to deliver a controlled substance listed in Penalty Group 1-B.” <sup>116</sup>	4-200g: 10/Life 200-400g: 15/Life ≥400g: 20/Life <sup>117</sup>	
	Tex. Health & Safety Code Ann. § 481.1123	Sept. 1, 2021 <sup>118</sup>	“[A] person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in Penalty Group 1-B.” <sup>119</sup>	<1g: 2-10 1-4g: 2-20 4-200g: 10/Life 200-400g: 15/Life ≥400g: 20/Life <sup>120</sup>	Penalties for fentanyl are slightly greater than for other drugs.
Utah	-	-	-	-	-
Vermont	<a href="#">Vt. Stat. Ann. tit. 18, § 4233a</a>	July 1, 2024 <sup>121</sup>	Knowingly and unlawfully dispensing, selling, or trafficking fentanyl is a crime.	3/5 ≥4mg: 3/10 ≥20mg: 3/20 ≥70mg: 3/30 <sup>122</sup>	Added definition of “knowingly.” <sup>123</sup>
	Vt. Stat. Ann. tit. 18, § 4233a	July 1, 2017 <sup>124</sup>	Knowingly and unlawfully dispensing, selling, or trafficking fentanyl is a crime.	3/5 ≥4mg: 3/10 ≥20mg: 3/20 ≥70mg: 3/30 <sup>125</sup>	Penalties are significantly greater than for other substances.
Virginia	-	-	-	-	-
Washington D.C.	-	-	-	-	-
Washington	-	-	-	-	-

State	Citation	Effective Date of Relevant Provision	Relevant Language	Min/Max Incarceration Penalty <sup>1</sup>	Summary of New Law
West Virginia	<a href="#">W. Va. Code Ann. § 60A-4-401(a)</a>	June 10, 2022 <sup>126</sup>	“It is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance... any person who violates this section knowing that the controlled substance classified in Schedule II is fentanyl, either alone or in combination with any other substance shall...be imprisoned in a state correctional facility for not less than 3 nor more than 15 years, or both.”	3/15	Other schedule I-III controlled substances significant smaller penalties.
	<a href="#">W. Va. Code Ann. § 60A-4-409</a>	June 10, 2022 <sup>127</sup>	“[I]t is unlawful for any person to transport or cause to be transported into this state a controlled substance with the intent to deliver the same or with the intent to manufacture a controlled substance.”	10/20 <sup>128</sup>	Other schedule I-III controlled substances significant smaller penalties.
Wisconsin	-	-	-	-	-
Wyoming	-	-	-	-	-

This document was developed by Amy Lieberman, J.D., Deputy Director, Harm Reduction Legal Project, Network for Public Health Law, with assistance from Harm Reduction Legal Project Director, Corey Davis, J.D., and Senior Attorneys, Ashleigh Dennis, J.D. and Michael Abrams, J.D. The Network promotes public health and health equity through non-partisan educational resources and technical assistance. These materials provided are provided solely for educational purposes and do not constitute legal advice. The Network’s provision of these materials does not create an attorney-client relationship with you or any other person and is subject to the [Network’s Disclaimer](#).

#### SUPPORT

This project is supported by the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$750,000 with 100 percent funded by CDC/HHS. The contents are those of the author(s) and do

not necessarily represent the official views of, nor an endorsement, by CDC/HHS, or the U.S. Government.



- <sup>1</sup> Minimum and maximum penalties are for first time offenses by an adult (with an adult victim, if applicable) with no special circumstances. Measured in years unless otherwise specified. In some laws, punishments may vary depending on the circumstances of the offense, in which case we have included the minimum and maximum carceral penalties for the various circumstances. If there is no minimum or maximum, this is represented by a “-.”
- <sup>2</sup> Amendment added minimum imprisonment terms and additional penalties for second and third convictions. [2023 Alabama Laws Act 2023-4 \(H.B. 1\)](#).
- <sup>3</sup> “Any person, unless otherwise authorized by law, who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, one gram or more of Fentanyl or any synthetic controlled substance Fentanyl analogue, as a single component ... is guilty of a felony, which shall be known as “trafficking in illegal drugs.” If the quantity involved: a.1. Is one gram or more, but less than two grams, the person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a minimum fine of fifty thousand dollars (\$50,000). 2. Is two grams or more, but less than four grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 10 calendar years and to pay a minimum fine of one hundred thousand dollars (\$100,000). 3. Is four grams or more, but less than eight grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and to pay a minimum fine of five hundred thousand dollars (\$500,000). 4. Is eight grams or more, the person shall be sentenced to a mandatory term of imprisonment of life and to pay a minimum fine of seven hundred fifty thousand dollars (\$750,000). b.1. Notwithstanding any provision of law, in addition to any penalties provided by law, upon a second conviction of this subdivision, the person shall be sentenced to an additional term of imprisonment of five calendar years, which is not subject to suspension or probation. 2. Upon a third or subsequent conviction of this subdivision, in addition to any penalties provided by law, the person shall be sentenced to an additional term of imprisonment of 10 calendar years, which is not subject to suspension or probation.” Ala. Code § 13A-12-231(13).
- <sup>4</sup> [2018 Alabama Laws Act 2018-552 \(S.B. 39\)](#).
- <sup>5</sup> “If the quantity involved: a. Is one gram or more, but less than two grams, the person shall be ordered to pay a minimum fine of fifty thousand dollars (\$50,000). b. Is two grams or more, but less than four grams, the person shall be ordered to pay a minimum fine of one hundred thousand dollars (\$100,000). c. Is four grams or more, but less than eight grams, the person shall be ordered to pay a minimum fine of five hundred thousand dollars (\$500,000). d. Is eight grams or more, the person shall be ordered to pay a minimum fine of seven hundred fifty thousand dollars (\$750,000).”
- <sup>6</sup> [2018 Alabama Laws Act 2018-552 \(S.B. 39\)](#).
- <sup>7</sup> “Unlawful possession with intent to distribute a controlled substance is a Class B felony.” “For a Class B felony, [imprisonment] not more than 20 years or less than two years.” Ala. Code § 13A-5-6(a)(2).
- <sup>8</sup> Az. Rev. Stat. Ann. § 13-3408(F).
- <sup>9</sup> Possession for sale, sale, or transport are all class 2 felonies. Az. Rev. Stat. Ann. § 13-3408(B).
- <sup>10</sup> [2021 Arkansas Laws Act 887 \(H.B. 1878\)](#). April 11, 2023 - added the offense of predatory marketing of fentanyl to minors. [2023 Arkansas Laws Act 584 \(H.B. 1456\)](#).
- <sup>11</sup> Possession of fentanyl is a Class C felony. The penalty for a Class C felony is no less than 3 years and no more than 10 years. Ark. Code. Ann. § 5-4-401. Possession of fentanyl with purpose to deliver is a Class A felony. The penalty for a Class A felony is no less than 6 years and no more than 30 years. Ark. Code. Ann. § 5-4-401. Delivery of fentanyl and manufacturing of fentanyl are Class Y felonies. The penalty for a Class Y felony is no less than 10 years and no more than 40 years or life. Ark. Code. Ann. § 5-4-401.
- <sup>12</sup> Amendment added specific penalty for fentanyl. [2023 Arkansas Laws Act 584 \(H.B. 1456\)](#).
- <sup>13</sup> “Trafficking of fentanyl is an unclassified felony with a sentence of imprisonment of not less than twenty-five (25) years nor more than sixty (60) years, or life, and a fine of one million dollars (\$1,000,000).” Ark. Code. Ann. § 5-64-440(c)(2).
- <sup>14</sup> [2021 Arkansas Laws Act 887 \(H.B. 1878\)](#).
- <sup>15</sup> “For a Class Y felony, the sentence shall be not less than ten (10) years and not more than forty (40) years, or life.” Ark. Code Ann. § 5-4-401(a)(1).

- <sup>16</sup> [2023 Cal. Legis. Serv. Ch. 540 \(A.B. 701\)](#).
- <sup>17</sup> “(A) If the substance exceeds one kilogram by weight, the person shall receive an additional term of three years. (B) If the substance exceeds four kilograms by weight, the person shall receive an additional term of five years. (C) If the substance exceeds 10 kilograms by weight, the person shall receive an additional term of 10 years. (D) If the substance exceeds 20 kilograms by weight, the person shall receive an additional term of 15 years. (E) If the substance exceeds 40 kilograms by weight, the person shall receive an additional term of 20 years. (F) If the substance exceeds 80 kilograms by weight, the person shall receive an additional term of 25 years.”
- <sup>18</sup> [2022 Colo. Legis. Serv. Ch. 225 \(H.B. 22-1326\)](#).
- <sup>19</sup> Unlawful distribution, manufacturing, dispensing, or sale aggravating circumstances minimum: Drug felony 2: midpoint of presumptive range (4-8 year) Drug felony 3: midpoint of presumptive range (2-4 years) Drug felony 4: midpoint of presumptive range (6 months to 1 year) Unlawful distribution, manufacturing, dispensing, or sale aggravating circumstances maximum: Drug felony 2: 16 year Drug felony 3: 6 year Drug felony 4: 2 years Unlawful possession sentence for level 4 drug felony: Up to 2 years probation w/ possible 180 days in county jail for first offense or alternative sentencing. Colo. Rev. Stat. Ann. § 18-1.3-401.5(2)(b).
- <sup>20</sup> [2022 Colo. Legis. Serv. Ch. 225 \(H.B. 22-1326\)](#). Good Samaritan provisions added May 1, 2023. [2023 Colo. Legis. Serv. Ch. 144 \(H.B. 23-1167\)](#).
- <sup>21</sup> Minimum: Drug felony 1: 8 years (depending on quantity) Drug felony 2: midpoint of presumptive range (4-8 year) Drug felony 3: midpoint of presumptive range (2-4 years) Drug felony 4: midpoint of presumptive range (6 months to 1 year). Colo. Rev. Stat. Ann. § 18-1.3-401.5(2)(a);(7)) Maximum: Drug felony 1: 32 years Drug felony 2: 16 years Drug felony 3: 6 years Drug felony 4: 2 years. Colo. Rev. Stat. Ann. § 18-1.3-401.5(2)(a);(7)).
- <sup>22</sup> [2022 Colo. Legis. Serv. Ch. 225 \(H.B. 22-1326\)](#).
- <sup>23</sup> Colo. Rev. Stat. Ann. § 18-1.3-501(1)(d).
- <sup>24</sup> Minimum: Drug felony 1: 8 years (depending on quantity) Drug felony 2: midpoint of presumptive range (4-8 year) Drug felony 3: midpoint of presumptive range (2-4 years) Drug felony 4: midpoint of presumptive range (6 months to 1 year). Colo. Rev. Stat. Ann. § 18-1.3-401.5(2)(a);(7)) Maximum: Drug felony 1: 32 years Drug felony 2: 16 years Drug felony 3: 6 years Drug felony 4: 2 years. Colo. Rev. Stat. Ann. § 18-1.3-401.5(2)(a);(7)) Unlawful possession sentence for level 4 drug felony: Up to 2 years probation w/ possible 180 days in county jail for first offense or alternative sentencing. Colo. Rev. Stat. Ann. § 18-1.3-401.5(2)(a).
- <sup>25</sup> Colo. Rev. Stat. Ann. § 18-1.3-401.5(2)(a).
- <sup>26</sup> Mandatory minimums for 4-14 increased from 3 years to 7 years, 14-28 increased from 15 years to 20 years. [2022 Fla. Sess. Law Serv. Ch. 2022-129 \(C.S.H.B. 95\)](#). “(VII) A mixture containing any substance described in sub-sub-subparagraphs (I)-(VI), commits a felony of the first degree, which felony shall be known as “trafficking in dangerous fentanyl or fentanyl analogues,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. b. If the quantity involved under sub-subparagraph a.: (I) Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and shall be ordered to pay a fine of \$50,000. (II) Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 20 years, and shall be ordered to pay a fine of \$100,000. [2023 Fla. Sess. Law Serv. Ch. 2023-26 \(C.S.C.S.H.B. 1359\)](#). Amendments July 1, 2018, and October 1, 2019, did not change fentanyl provisions. [2018 Fla. Sess. Law Serv. Ch. 2018-13 \(C.S.C.S.H.B. 21\)](#); [2019 Fla. Sess. Law Serv. Ch. 2019-167 \(C.S.H.B. 7125\)](#). Amendment adds offense for giving minors drugs disguised as food products or containing a cartoon imprint. [2023 Fla. Sess. Law Serv. Ch. 2023-26 \(C.S.C.S.H.B. 1359\)](#). Technical amendment July 1, 2024. [2024 Fla. Sess. Law Serv. Ch. 2024-20 \(S.B. 1512\)](#).
- <sup>27</sup> “If the quantity involved... is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and shall be ordered to pay a fine of \$50,000. (II) Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 20 years, and shall be ordered to pay a fine of \$100,000. (III) Is 28 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years, and shall be ordered to pay a fine of \$500,000.”
- <sup>28</sup> [2017 Fla. Sess. Law Serv. Ch. 2017-107 \(C.S.H.B. 477\)](#).
- <sup>29</sup> “If the quantity involved... is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and shall be ordered to pay a fine of \$50,000. (II) Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 20 years, and shall be ordered to pay a fine of \$100,000. (III) Is 28 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years, and shall be ordered to pay a fine of \$500,000.” [2017 Fla. Sess. Law Serv. Ch. 2017-107 \(C.S.H.B. 477\)](#).
- <sup>30</sup> [2007 Ill. Legis. Serv. P.A. 95-259 \(S.B. 129\)](#).
- <sup>31</sup> Amended to lower the fentanyl-amount thresholds throughout. [2025 Ind. Legis. Serv. P.L. 197-2025 \(S.E.A. 324\)](#).
- <sup>32</sup> “A person who...knowingly or intentionally: [manufactures; finances the manufacture of; delivers; or finances the delivery of, possesses with intent to manufacture, finance the manufacture of; deliver; or finance the delivery of] cocaine or a narcotic drug, pure or adulterated, classified in schedule I or II...commits dealing in cocaine or a narcotic drug...the offense is a Level 4 felony if...the drug is a fentanyl containing substance and the amount of fentanyl containing substance involved is less than one (1)

gram...the offense is a Level 3 felony if...the drug is a fentanyl containing substance and the amount of fentanyl containing substance involved, aggregated over a period of not more than ninety (90) days, is at least one (1) gram but less than five (5) grams; or...the drug is a fentanyl containing substance and: (A) the amount of fentanyl containing substance involved is less than one (1) gram; and (B) an enhancing circumstance applies.” “(e) The offense is a Level 2 felony if: ... (5) the drug is a fentanyl containing substance and the amount of fentanyl containing substance involved, aggregated over a period of not more than ninety (90) days, is at least five (5) grams; or (6) the drug is a fentanyl containing substance and: (A) the amount of fentanyl containing substance involved, aggregated over a period of not more than ninety (90) days, is at least one (1) gram but less than five (5) grams; and (B) an enhancing circumstance applies.”

<sup>33</sup> Level 2, 3, 4 or 5 felony depending on amount “A person who commits a Level 2 felony shall be imprisoned for a fixed term of between ten (10) and thirty (30) years, with the advisory sentence being seventeen and one-half (17 ½ ) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).” Ind. Code § 35-50-2-4.5. “A person who commits a Level 3 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between three (3) and sixteen (16) years, with the advisory sentence being nine (9) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).” Ind. Code § 35-50-2-5(b). “A person who commits a Level 4 felony shall be imprisoned for a fixed term of between two (2) and twelve (12) years, with the advisory sentence being six (6) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).” Ind. Code § 35-50-2-5.5. “A person who commits a Level 5 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between one (1) and six (6) years, with the advisory sentence being three (3) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).” Ind. Code § 35-50-2-6(b).

<sup>34</sup> [2023 Ind. Legis. Serv. P.L. 48-2023 \(S.E.A. 379\).](#)

<sup>35</sup> Level 2, 3, 4 or 5 felony depending on amount “A person who commits a Level 2 felony shall be imprisoned for a fixed term of between ten (10) and thirty (30) years, with the advisory sentence being seventeen and one-half (17 ½ ) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).” Ind. Code § 35-50-2-4.5. “A person who commits a Level 3 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between three (3) and sixteen (16) years, with the advisory sentence being nine (9) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).” Ind. Code § 35-50-2-5(b). “A person who commits a Level 4 felony shall be imprisoned for a fixed term of between two (2) and twelve (12) years, with the advisory sentence being six (6) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).” Ind. Code § 35-50-2-5.5. “A person who commits a Level 5 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between one (1) and six (6) years, with the advisory sentence being three (3) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).” Ind. Code § 35-50-2-6(b).

<sup>36</sup> [2023 Ia. Legis. Serv. Ch. 86 \(H.F. 595\).](#)

<sup>37</sup> “A class “B” felon shall be confined for no more than twenty-five years.” Iowa Code § 902.9(1)(b). “A class “C” felon, not an habitual offender, shall be confined for no more than ten years, and in addition shall be sentenced to a fine of at least one thousand three hundred seventy dollars but not more than thirteen thousand six hundred sixty dollars.” Iowa Code § 902.9(1)(d).

<sup>38</sup> [2024 Kansas Laws Ch. 96 \(S.B. 414\).](#)

<sup>39</sup> “(A) Drug severity level 4 felony if the quantity of the material was less than 1 gram; (B) drug severity level 3 felony if the quantity of the material was at least 1 gram but less than 3.5 grams; (C) drug severity level 2 felony if the quantity of the material was at least 3.5 grams but less than 100 grams; and (D) drug severity level 1 felony if the quantity of the material was 100 grams or more.” . . . “(5) Violation of subsection (a) with respect to material containing any quantity of a fentanyl-related controlled substance, distributed by dosage unit, is a: (A) Drug severity level 4 felony if the number of dosage units was fewer than 10; (B) drug severity level 3 felony if the number of dosage units was at least 10 but fewer than 50; (C) drug severity level 2 felony if the number of dosage units was at least 50 but fewer than 250; and (D) drug severity level 1 felony if the number of dosage units was 250 or more.” “In any prosecution under this section, there shall be an inference of an intent to distribute if such an inference is supported by the facts and such person possesses the following quantities of controlled substances or analogs thereof:...(2) 3.5 grams or more of a fentanyl-related controlled substance, heroin or methamphetamine; (3) 50 dosage units or more containing any quantity of a fentanyl-related controlled substance.”

<sup>40</sup> Drug severity level 1 to 4 depending on quantity. Presumptive terms assuming no prior convictions: Drug severity level 1 – 308 months Drug severity level 2 – 206 months Drug severity level 3 – 102 months Drug severity level 4 – 32 months. See Kan. Stat. Ann. § 21-6805(a); Kan. Stat. Ann. § 21-6805(h)(1).

<sup>41</sup> [2023 Kansas Laws Ch. 94 \(S.B. 174\).](#)

<sup>42</sup> Presumptive terms assuming no prior convictions: Drug severity level 1 – 308 months. See Kan. Stat. Ann. § 21-6805(a); Kan. Stat. Ann. § 21-6805(h)(1).

<sup>43</sup> [2024 Kansas Laws Ch. 96 \(S.B. 414\).](#) Added violations of Kan. Stat. Ann. § 21-5705.

<sup>44</sup> [2023 Kansas Laws Ch. 94 \(S.B. 174\).](#)

- <sup>45</sup> [2017 Kentucky Laws Ch. 168 \(HB 333\)](#) - moved fentanyl and heroin from two gram quantity to “any” quantity and added “carfentanil, or fentanyl derivatives” -added fentanyl to the requirement for serving 50% of sentence. Amendment unrelated to fentanyl on June 27, 2019. [2019 Kentucky Laws Ch. 130 \(HB 470\)](#). Sentence enhancement for fentanyl DIH was added July 15, 2024. [2024 Kentucky Laws Ch. 174 \(HB 5\)](#).
- <sup>46</sup> “Any person who violates the provisions of subsection (1)(a), (b), (c), or (d) of this section shall be guilty of a Class C felony for the first offense.” Ky. Rev. Stat. Ann. § 218A.1412 (3)(a). “Unless otherwise provided by law, the authorized maximum terms of imprisonment for felonies are...[f]or a Class C felony, not less than five (5) years nor more than ten (10) years.” Ky. Rev. Stat. Ann. § 532.060(2)(c). Any person convicted of a Class C felony offense or higher under this section shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed in cases where the trafficked substance was heroin, fentanyl, carfentanil, or fentanyl derivatives.” Ky. Rev. Stat. Ann. § 218A.1412(3)(d).
- <sup>47</sup> [2015 Kentucky Laws Ch. 66 \(SB 192\)](#) - first time fentanyl was specifically added.
- <sup>48</sup> Ky. Rev. Stat. Ann. § 532.060(2)(c).
- <sup>49</sup> [2022 Kentucky Laws Ch. 130 \(HB 215\)](#) Requirement to serve 85% of sentence added.
- <sup>50</sup> “(2) Aggravated trafficking in a controlled substance in the first degree is a Class B felony, and: (a) The defendant shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least fifty percent (50%) of the sentence imposed where the trafficked substance was heroin; or (b) The defendant shall not be eligible for pretrial diversion, and shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed where the trafficked substance was fentanyl, carfentanil, or fentanyl derivatives.” Ky. Rev. Stat. Ann. § 218A.142 A Class B felony is punishable by 10-20 years. Ky. Rev. Stat. Ann. § 532.060(2)(b). “[A] fine in an amount not less than one thousand dollars (\$1,000) and not greater than ten thousand dollars (\$10,000) or double his gain from commission of the offense, whichever is the greater.” Ky. Rev. Stat. Ann. § 534.030(1).
- <sup>51</sup> [2017 Kentucky Laws Ch. 168 \(HB 333\)](#).
- <sup>52</sup> “(2) Aggravated trafficking in a controlled substance in the first degree is a Class B felony, and: (a) The defendant shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least fifty percent (50%) of the sentence imposed where the trafficked substance was heroin; or (b) The defendant shall not be eligible for pretrial diversion, and shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed where the trafficked substance was fentanyl, carfentanil, or fentanyl derivatives.” Ky. Rev. Stat. Ann. § 218A.142 A Class B felony is punishable by 10-20 years. Ky. Rev. Stat. Ann. § 532.060(2)(b). “[A] fine in an amount not less than one thousand dollars (\$1,000) and not greater than ten thousand dollars (\$10,000) or double his gain from commission of the offense, whichever is the greater.” Ky. Rev. Stat. Ann. § 534.030(1).
- <sup>53</sup> [2022 Kentucky Laws Ch. 130 \(HB 215\)](#). Requirement to serve 85% of sentence added.
- <sup>54</sup> “The provisions of this section are intended to be a separate offense from others in this chapter, and shall be punished in addition to violations of this chapter occurring during the same course of conduct.” Ky. Rev. Stat. Ann. § 218A.1410.
- <sup>55</sup> “Importing carfentanil, fentanyl, or fentanyl derivatives is a Class C felony, and the defendant 1. Shall not be eligible for pretrial diversion; and 2. Shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.” Ky. Rev. Stat. Ann. § 218A.1410(3)(b). A class C felony is punishable by 5-10 years. Ky. Rev. Stat. Ann. § 532.060(2)(c). “a fine in an amount not less than one thousand dollars (\$1,000) and not greater than ten thousand dollars (\$10,000) or double his gain from commission of the offense, whichever is the greater.” Ky. Rev. Stat. Ann. § 534.030(1).
- <sup>56</sup> [2017 Kentucky Laws Ch. 168 \(HB 333\)](#).
- <sup>57</sup> The provisions of this section are intended to be a separate offense from others in this chapter, and shall be punished in addition to violations of this chapter occurring during the same course of conduct.” Ky. Rev. Stat. Ann. § 218A.1410.
- <sup>58</sup> “Importing carfentanil, fentanyl, or fentanyl derivatives is a Class C felony, and the defendant 1. Shall not be eligible for pretrial diversion; and 2. Shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.” Ky. Rev. Stat. Ann. § 218A.1410(3)(b). A class C felony is punishable by 5-10 years. Ky. Rev. Stat. Ann. § 532.060(2)(c). “a fine in an amount not less than one thousand dollars (\$1,000) and not greater than ten thousand dollars (\$10,000) or double his gain from commission of the offense, whichever is the greater.” Ky. Rev. Stat. Ann. § 534.030(1).
- <sup>59</sup> “Trafficking in a misrepresented controlled substance is a Class D felony.” Ky. Rev. Stat. Ann. § 218A.1414(3). A class D felony is punishable by punishable by 1-5 years. Ky. Rev. Stat. Ann. § 532.060(2)(d).
- <sup>60</sup> Effective August 1, 2022, added extra penalty for serious bodily injury result. [2022 La. Sess. Law Serv. Act 671 \(S.B. 315\)](#). [2023 La. Sess. Law Serv. Act 399 \(H.B. 90\)](#) changed penalties, removed option for probation for distribution of fentanyl.
- <sup>61</sup> “(a) On conviction of an aggregate weight of less than twenty-eight grams, imprisonment at hard labor for not less than five years nor more than forty years, at least five years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand

dollars (b) On a first conviction of an aggregate weight of twenty-eight grams or more but less than two hundred fifty grams, imprisonment at hard labor for not less than seven years nor more than forty years, at least seven years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars...[U]pon conviction for an amount of: (a) An aggregate weight of less than two grams, shall be imprisoned, with or without hard labor, for not less than two years nor more than four years. (b) An aggregate weight of two grams or more but less than twenty-eight grams, shall be imprisoned, with or without hard labor, for not less than two years nor more than ten years and may, in addition, be required to pay a fine of not more than five thousand dollars." La. Stat. Ann. § 40:967. These are felony offenses. See [La. Stat. Ann. § 14:2\(A\)\(4\)](#) ("‘Felony’ is any crime for which an offender may be sentenced to death or imprisonment at hard labor.") For possession offenses of fentanyl and carfentanil, a court can order probation and treatment as a condition. La. Stat. Ann. § 40:967(E).

<sup>62</sup> La. Stat. Ann. § 40:967(B)(4).

<sup>63</sup> La. Stat. Ann. § 40:967(C)(4).

<sup>64</sup> Effective August 1, 2017 fentanyl provisions specifically added and called out with separate penalties and treatment options. [2018 La. Sess. Law Serv. Act 677 \(H.B. 165\)](#).

<sup>65</sup> La. Stat. Ann. § 40:967(B)(4)(a); [2018 La. Sess. Law Serv. Act 677 \(H.B. 165\)](#).

<sup>66</sup> "(a) On conviction of an aggregate weight of less than twenty-eight grams, imprisonment at hard labor for not less than five years nor more than forty years, at least five years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars (b) On a first conviction of an aggregate weight of twenty-eight grams or more but less than two hundred fifty grams, imprisonment at hard labor for not less than seven years nor more than forty years, at least seven years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars...[U]pon conviction for an amount of: (a) An aggregate weight of less than two grams, shall be imprisoned, with or without hard labor, for not less than two years nor more than four years. (b) An aggregate weight of two grams or more but less than twenty-eight grams, shall be imprisoned, with or without hard labor, for not less than two years nor more than ten years and may, in addition, be required to pay a fine of not more than five thousand dollars." La. Stat. Ann. § 40:967. These are felony offenses. See [La. Stat. Ann. § 14:2\(A\)\(4\)](#) ("‘Felony’ is any crime for which an offender may be sentenced to death or imprisonment at hard labor.") For possession offenses of fentanyl and carfentanil, a court can order probation and treatment as a condition. La. Stat. Ann. § 40:967(E).

<sup>67</sup> La. Stat. Ann. § 40:967(B)(4)(a); [2018 La. Sess. Law Serv. Act 677 \(H.B. 165\)](#).

<sup>68</sup> La. Stat. Ann. § 40:967(C)(4).

<sup>69</sup> [2017 Maryland Laws Ch. 569 \(S.B. 539\)](#).

<sup>70</sup> Felony subject to 10 years maximum. Md. Code Ann., Crim. Law § 5-608.1(b).

<sup>71</sup> Md. Code Ann., Crim. Law § 5-608(a); Md. Code Ann., Crim. Law § 5-609(a); Md. Code Ann., Crim. Law § 5-607(a).

<sup>72</sup> Fentanyl provision added. [2018 Maryland Laws Ch. 145 \(S.B. 1137\)](#). Technical amendment [2022 Maryland Laws Ch. 135 \(S.B. 406\)](#).

<sup>73</sup> Md. Code Ann., Crim. Law § 5-612 (a)(7)-(8).

<sup>74</sup> 5 years minimum. Md. Code Ann., Crim. Law § 5-612(c)(1). 20 year maximum. Md. Code Regs. 14.22.02.02. Violation is a felony. [2025 Maryland Laws Ch. 136 \(H.B. 413\)](#).

<sup>75</sup> Effective April 13, 2018, carfentanil and other synthetic opioid references added, as well as establishing a minimum penalty. [2018 Mass. Legis. Serv. Ch. 69 \(S.B. 2371\)](#).

<sup>76</sup> "A net weight of 10 grams or more of fentanyl or any derivative of fentanyl, or a net weight of 10 grams or more of any mixture containing fentanyl or any derivative of fentanyl, shall be punished by a term of imprisonment in state prison for not less than 3 and one-half nor more than 20 years. No sentence imposed under the provisions of this subsection shall be for less than a mandatory minimum term of imprisonment of 3 and one-half years. (c  $\frac{3}{4}$  ) Any person who trafficks in carfentanil, including without limitation, any derivative of carfentanil by knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or dispense or by bringing into the commonwealth carfentanil or any derivative of carfentanil, any mixture containing carfentanil or a derivative of carfentanil, provided, that such person had specific knowledge that such mixture contained carfentanil or any derivative of carfentanil, shall be punished by a term of imprisonment in state prison for not less than 3 and one-half nor more than 20 years. No sentence imposed pursuant to this subsection shall be for less than a mandatory minimum term of imprisonment of 3 and one-half years." Mass. Gen. Laws ch. 94C, § 32E.

<sup>77</sup> "(c  $\frac{1}{2}$  ) Any person who trafficks in fentanyl or any derivative of fentanyl by knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or dispense or by bringing into the commonwealth a net weight of 10 grams or more of fentanyl or any derivative of fentanyl, or a net weight of 10 grams or more of any mixture containing fentanyl or any derivative of fentanyl, shall be punished by a term of imprisonment in state prison for not less than 3 and one-half nor more than 20 years. No sentence imposed under the provisions of this subsection shall be for less than a mandatory minimum term of imprisonment of 3 and one-half years. (c  $\frac{3}{4}$  ) Any person who trafficks in carfentanil, including without limitation, any derivative of carfentanil by knowingly or intentionally manufacturing, distributing, dispensing or possessing with intent to manufacture, distribute or dispense or by bringing into the commonwealth carfentanil or any derivative of carfentanil, any mixture containing carfentanil or a derivative of carfentanil, provided, that such person had specific knowledge that such mixture contained carfentanil or any derivative of

carfentanil, shall be punished by a term of imprisonment in state prison for not less than 3 and one-half nor more than 20 years. No sentence imposed pursuant to this subsection shall be for less than a mandatory minimum term of imprisonment of 3 and one-half years. Mass. Gen. Laws ch. 94C, § 32E (c ½)-(c ¾).

<sup>78</sup> Effective February 22, 2016 fentanyl was first added to the section. [2015 Mass. Legis. Serv. Ch. 136 \(H.B. 3798\)](#).

<sup>79</sup> Mass. Gen. Laws ch. 94C, § 32E (c ½).

<sup>80</sup> [2023 Minn. Sess. Law Serv. Ch. 52 \(S.F. 2909\)](#).

<sup>81</sup> “(a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$250,000, or both.” Minn. Stat. § 152.023 Subd. 3(a).

<sup>82</sup> [2020 Mo. Legis. Serv. H.B. 1896](#).

<sup>83</sup> Mo. Rev. Stat. § 579.065(1.)(11).

<sup>84</sup> “The offense of trafficking drugs in the first degree is a class A felony if the quantity involved is:...(13) Twenty milligrams or more of fentanyl or carfentanil, or any derivative thereof, or any combination thereof, or any compound, mixture, or substance containing a detectable amount of fentanyl or carfentanil, or their optical isomers or analogues.” Mo. Rev. Stat. § 579.065(3.). 10-19 milligrams is a class B felony. Mo. Rev. Stat. § 579.065(2.) 20 or more milligrams is a class A felony. Mo. Rev. Stat. § 579.065(3)(13). “For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment; (2) For a class B felony, a term of years not less than five years and not to exceed fifteen years” Mo. Rev. Stat. § 558.011.

<sup>85</sup> [2020 Mo. Legis. Serv. H.B. 1896](#).

<sup>86</sup> Mo. Rev. Stat. § 579.068(1.)(9).

<sup>87</sup> Mo. Rev. Stat. § 579.068(3.)(10).

<sup>88</sup> 10mg-19mg is a class C felony. Mo. Ann. Stat. § 579.068(2.) 20 mg or more is a class B felony. Mo. Ann. Stat. § 579.068(2.) “For a class B felony, a term of years not less than five years and not to exceed fifteen years” Mo. Rev. Stat. § 558.011(1.)(2). “For a class C felony, a term of years not less than three years and not to exceed ten years” Mo. Rev. Stat. § 558.011(1.)(3).

<sup>89</sup> [2023 Montana Laws Ch. 543 \(H.B. 791\)](#).

<sup>90</sup> Mont. Code Ann. § 45-9-101(6).

<sup>91</sup> Mont. Code Ann. § 45-9-101(6).

<sup>92</sup> [2023 Montana Laws Ch. 543 \(H.B. 791\)](#).

<sup>93</sup> Mont. Code Ann. § 45-9-103(3).

<sup>94</sup> Mont. Code Ann. § 45-9-101(6).

<sup>95</sup> [2023 Nevada Laws Ch. 468 \(S.B. 35\)](#).

<sup>96</sup> “[A] person who knowingly or intentionally sells, manufactures, delivers or brings into this State or who is knowingly or intentionally in actual or constructive possession of illicitly manufactured fentanyl, any derivative of fentanyl or any mixture which contains illicitly manufactured fentanyl or any derivative of fentanyl, unless a greater penalty is provided pursuant to NRS 453.322, if the quantity involved: 1. Is 28 grams or more, but less than 42 grams, is guilty of trafficking and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years. 2. Is 42 grams or more, but less than 100 grams, is guilty of high-level trafficking and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years.” Nev. Rev. Stat. § 453.3387.

<sup>97</sup> 28 - 42 grams, “is guilty of trafficking and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years.” Nev. Rev. Stat. § 453.3387(1).

<sup>98</sup> “42 grams or more, but less than 100 grams, is guilty of high-level trafficking and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years. Nev. Rev. Stat. § 453.3387(2).

<sup>99</sup> Amended to add enhanced potential prison term in addition to monetary penalties, and to add “aggravated trafficking” offense and penalties for 5 grams or more of fentanyl. [2021 Okla. Sess. Law Serv. Ch. 380 \(H.B. 1567\)](#).

<sup>100</sup> It is also illegal to “3. Use or solicit the use of services of a person less than eighteen (18) years of age to distribute or manufacture a controlled substance...in the quantities specified.”

<sup>101</sup> Okla. Stat. Tit. 63, § 2-415(12).

<sup>102</sup> Amended to add “fentanyl and its analogs and derivatives” to Trafficking in Illegal Drugs Act. [2019 Okla. Sess. Law Serv. Ch. 25 \(S.B. 1041\)](#).

<sup>103</sup> Okla. Stat. Tit. 63, § 2-415(12).

- <sup>104</sup> Amended to add subsection (8)(a)'s escalation of fentanyl possession categorization. [2023 Oregon Laws Ch. 413 \(H.B. 2645\)](#).
- <sup>105</sup> Or. Rev. Stat. § 161.615.
- <sup>106</sup> Effectively escalates the punishment of possession of fentanyl (class A misdemeanor) relative to other Schedule II substances (drug enforcement misdemeanors). Notably applies to any mixture with “detectable amount of fentanyl,” not based on possessor’s knowledge. Or. Rev. Stat. § 475.752(8)(a).
- <sup>107</sup> Amended to add subsections (1)(d) and (2)(d) re fentanyl sentencing. [2021 Oregon Laws Ch. 591 \(S.B. 755\)](#).
- <sup>108</sup> Delivery or Manufacture of a Controlled Substance, which is categorized into various degrees based on the schedule of the substance involved; no specific reference to fentanyl, but see re penalties. Or. Rev. Stat. § 475.752(1).
- <sup>109</sup> “When a person is convicted of the unlawful delivery or manufacture of a controlled substance, the court shall sentence the person to a term of incarceration ranging from: (1) 58 months to 130 months, depending on the person's criminal history, if the delivery or manufacture involves: . . . (d) 100 grams or more of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl . . . (2) 34 months to 72 months . . . if the delivery or manufacture involves: . . . (d) 50 grams or more of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl.”
- <sup>110</sup> Amended to add drug trafficking offense, including fentanyl provisions. [2019 Pa. Legis. Serv. Act 2019-115 \(S.B. 501\)](#).
- <sup>111</sup> 61 Pa. Cons. Stat. § 4103.
- <sup>112</sup> See 18. Pa. Cons. Stat. § 7508, providing for heightened penalties for “drug trafficking” offenses: “(2) A person who is convicted of violating section 13(a)(14), (30) or (37) of The Controlled Substance, Drug, Device and Cosmetic Act where the controlled substance or a mixture containing it is classified in Schedule I or Schedule II under section 4 of that act and is a narcotic drug shall, upon conviction, be sentenced to a mandatory minimum term of imprisonment and a fine as set forth in this subsection: (i) when the aggregate weight of the compound or mixture containing the substance involved is at least 2.0 grams and less than ten grams; two years in prison and a fine of \$5,000 or such larger amount as is sufficient to exhaust the assets utilized in and the proceeds from the illegal activity; however, if at the time of sentencing the defendant has been convicted of another drug trafficking offense: three years in prison and \$10,000 or such larger amount as is sufficient to exhaust the assets utilized in and the proceeds from the illegal activity; (ii) when the aggregate weight of the compound or mixture containing the substance involved is at least ten grams and less than 100 grams; three years in prison and a fine of \$15,000 or such larger amount as is sufficient to exhaust the assets utilized in and the proceeds from the illegal activity; however, if at the time of sentencing the defendant has been convicted of another drug trafficking offense: five years in prison and \$30,000 or such larger amount as is sufficient to exhaust the assets utilized in and the proceeds from the illegal activity; and (iii) when the aggregate weight of the compound or mixture containing the substance involved is at least 100 grams; five years in prison and a fine of \$25,000 or such larger amount as is sufficient to exhaust the assets utilized in and the proceeds from the illegal activity; however, if at the time of sentencing the defendant has been convicted of another drug trafficking offense: seven years in prison and \$50,000 or such larger amount as is sufficient to exhaust the assets utilized in and the proceeds from the illegal activity.” 18 Pa. Cons. Stat. § 7508(a)(2); 204 Pa. Cons. Stat. § 303a.9 & 204; Pa. Cons. Stat. § 303.15: variable penalties for both (a)(14) and (a)(30) based on quantity of fentanyl (1g, 1-10g, 10-50g, 50-100g, >100g), shifting offense gravity score (8, 10, 11, 13, 14).
- <sup>113</sup> Amended to add fentanyl-specific offenses. [2023 South Carolina Laws Act 72 \(H.3503\)](#).
- <sup>114</sup> Per subsection (4), possession of more than 2 grains of fentanyl or related substance is a felony and defendant “must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years or fined not more than ten thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;” . . . Per subsection 9: “upon conviction, [Defendant] must be punished as follows if the quantity involved is: (a) four grams or more, but less than fourteen grams: 1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars; 2. for a second or subsequent offense, a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars; (b) fourteen grams or more but less than twenty-eight grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars; (c) twenty-eight grams or more, a mandatory term of imprisonment of not less than twenty-five years nor more than forty years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.”
- <sup>115</sup> Amended to specify degrees of listed felonies. [2023 Tex. Sess. Law Serv. Ch. 910 \(H.B. 6\)](#).
- <sup>116</sup> Penalty group 1-B is all fentanyls. [Tex. Health & Safety Code Ann. § 481.1022](#).
- <sup>117</sup> “(b) An offense under Subsection (a) is a felony of the third degree if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, less than one gram. (c) An offense under Subsection (a) is a felony of the second degree if the amount of the controlled substance to which the

offense applies is, by aggregate weight, including adulterants or dilutants, one gram or more but less than four grams. (d) An offense under Subsection (a) is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed \$20,000, if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, four grams or more but less than 200 grams. (e) An offense under Subsection (a) is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 15 years, and a fine not to exceed \$200,000, if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, 200 grams or more but less than 400 grams. (f) An offense under Subsection (a) is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 20 years, and a fine not to exceed \$500,000, if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, 400 grams or more.” A second degree felony is punishable by 2-20 years and maximum \$10,00 fine. Tex. Penal Code Ann. § 12.33. A third degree felony is punishable by 2-10 years and maximum \$10,00 fine. Tex. Penal Code Ann. § 12.34.

<sup>118</sup> Added to TX code. [2021 Tex. Sess. Law Serv. Ch. 584 \(S.B. 768\)](#).

<sup>119</sup> Penalty group 1-B is all fentanyls. Tex. Health & Safety Code Ann. § 481.1022.

<sup>120</sup> “(b) An offense under Subsection (a) is a felony of the third degree if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, less than one gram. (c) An offense under Subsection (a) is a felony of the second degree if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, one gram or more but less than four grams. (d) An offense under Subsection (a) is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 10 years, and a fine not to exceed \$20,000, if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, four grams or more but less than 200 grams. (e) An offense under Subsection (a) is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 15 years, and a fine not to exceed \$200,000, if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, 200 grams or more but less than 400 grams. (f) An offense under Subsection (a) is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 20 years, and a fine not to exceed \$500,000, if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, 400 grams or more.” A second degree felony is punishable by 2-20 years and maximum \$10,00 fine. Tex. Penal Code Ann. § 12.33. A third degree felony is punishable by 2-10 years and maximum \$10,00 fine. Tex. Penal Code Ann. § 12.34.

<sup>121</sup> Amended to include subsection (d), defining “knowingly.” [2024 Vermont Laws No. 125 \(S. 58\)](#).

<sup>122</sup> “A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling fentanyl shall be imprisoned not more than five years or fined not more than \$100,000.00, or both. (2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both. (3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both. (4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than \$250,000.00, or both. (b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate. (c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both. (d) As used in this section, “knowingly” means: (1) the defendant had actual knowledge that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; or (2) the defendant: (A) was aware that there is a high probability that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; and (B) took deliberate actions to avoid learning that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter.

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<sup>123</sup> “As used in this section, “knowingly” means: (1) the defendant had actual knowledge that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; or (2) the defendant: (A) was aware that there is a high probability that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; and (B) took deliberate actions to avoid learning that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter.” Vt. Stat. Ann. tit. 18, § 4233a(d).

<sup>124</sup> Added to VT code. [2017 Vermont Laws No. 62 \(H. 503\)](#).

<sup>125</sup> “A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling fentanyl shall be imprisoned not more than five years or fined not more than \$100,000.00, or both. (2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both. (3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both. (4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than \$250,000.00, or both. (b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate. (c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both. (d) As used in this section, “knowingly” means: (1) the defendant had actual knowledge that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; or (2) the defendant: (A) was aware that there is a high probability that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; and (B) took deliberate actions to avoid learning that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter.”

<sup>126</sup> Amended to add fentanyl-specific drug offenses. [2022 West Virginia Laws Ch. 58 \(S.B. 536\)](#).

<sup>127</sup> Amended to include fentanyl-specific version of trafficking offense. [2022 West Virginia Laws Ch. 58 \(S.B. 536\)](#).

<sup>128</sup> “(b) Any person who violates this section with respect to: (1) A controlled substance classified in Schedule I or II, which is a narcotic drug, shall be guilty of a felony and, upon conviction thereof, may be imprisoned in the state correctional facility for not less than one year nor more than 15 years, or fined not more than \$25,000, or both: Provided, That any person who violates this section knowing that the controlled substance classified in Schedule II is fentanyl, either alone or in combination with any other substance shall be fined not more than \$50,000 or imprisoned in a state correctional facility for a definite term of not less than 10 nor more than 20 years, or both fined and imprisoned.”