

HB22-1326: Fentanyl Accountability & Prevention

THE WRONG SOLUTION TO AN URGENT CRISIS

The alarming spike in fentanyl-related overdose deaths is an urgent public health crisis that demands immediate action by policy makers at every level of government in order to save lives. **But HB22-1326 is the wrong solution. To tackle unprecedented overdose deaths in our communities, Colorado must pursue a public health roadmap, not a carceral one.**

As amended, HB22-1326 makes the possession of as little as 1 gram of fentanyl a felony. Someone who possesses a pill with one gram of pure fentanyl and someone whose one gram of Xanax or cocaine is laced with a dusting of fentanyl could both be charged with a felony. Since fentanyl contamination of street drugs is rampant, this will essentially make it a felony to possess illicit drugs in personal-use amounts.

1. Fentanyl is a public health crisis that demands a public health solution.

Colorado's most respected harm reduction experts and behavioral health professionals are united in opposition to the felonization of personal-use levels of fentanyl possession, saying it will do nothing to reduce drug use or the supply of illicit fentanyl in our communities, but that it is likely to:

- Increase overdose deaths.
- Make it harder for people who are ready to get treatment to access that treatment.
- Saddle people who have substance use disorders with the lifelong consequences of felony records, making it even harder to stabilize and get well.
- Only serve to make the fentanyl crisis worse.

“ This is a natural reaction for society and lawmakers to say, ‘We want to put the squeeze on this,’ but you can’t arrest your way out of this problem.”

Bryce Pardo

Director of the Drug Policy Research Center at the RAND Corporation

2. Felonization will not stop overdoses – it will increase them.

Most states with higher overdose rates than Colorado are those that felonize the simple possession of fentanyl. **That’s because felonization:**

- Drives people away from seeking treatment out of fear of criminalization.
- Creates a reluctance to call 911 in an overdose situation, for fear of being criminalized.
- Causes more people to use drugs alone, for fear of being criminalized.
- Increases the number of people incarcerated for drug possession, who then have much higher rates of overdose upon release.

10-40X

INCREASED LIKELIHOOD OF OVERDOSE

Drug overdose is a leading cause of death among formerly incarcerated people, who are 10 to 40 times more likely to overdose in the early days of their release than the general population.

3. Felonization will reduce access to evidence-based treatment.

Voluntary treatment is proven more successful.

Studies show that people who receive treatment when they seek it out voluntarily have the very best chances for successful recovery, especially when they can start receiving that treatment at that crucial moment of decision. Success rates of those coerced into treatment are much lower, and can lower the success rates of those who are there voluntarily.

Colorado is failing to meet the demand for voluntary treatment.

Currently in Colorado there are between **400-450 people who urgently want treatment for their substance use disorders** waiting for residential or inpatient substance use treatment beds in the public system. **People wait on average 2 weeks to 2 months to get into care** due to both the lack of capacity and statewide staffing shortages.

HB1326 will further reduce access to voluntary treatment.

HB1326 will flood Colorado's overburdened drug treatment capacity with people coerced into treatment as part of plea deals for lighter sentencing. Their success rates are far lower.

People seeking voluntary treatment will have to compete for limited resources with coerced patients. That means longer waitlists, and more danger of overdose while they wait.

4. Felonization will hit communities of color the hardest.

People of all races use drugs at a similar rate, but in Colorado:

- Black people are **twice as likely** as white people to be arrested for a drug offense.
- Innocent Black people are **12x more** likely to be convicted of drug offenses than innocent white people.
- Black people receive **longer sentences** for similar offenses.

As a result, 25% of Black people have a current or prior felony offense (compared with just 6% of the rest of the population), and researchers estimate that one in three Black men will be convicted of felony offenses in their lifetime.

“...decades of data show us that while drug possession remained a felony we did not see increased access to treatment or decreased use, but we did see entire communities, particularly communities of color, devastated by mass incarceration and the collateral consequences of felonies.”

Mental Health Colorado

The solution to Colorado's fentanyl crisis is too important to get wrong.

More lives will be lost if we take the wrong road, and regressive approaches that center punishment and incarceration have been disproven time and again. **If we hope to reduce both drug use and overdose deaths in our state, Colorado lawmakers must pursue smart, evidence-based policies to address the fentanyl crisis.** We can start by prioritizing meeting the demand for substance use treatment, at all access points, in a timely manner, for everyone who wants and needs it. We must follow a public health roadmap out of this crisis.



Fix HB1326: Coloradans need treatment & harm reduction, not felonization & punishment.