**South Carolina General Assembly**

125th Session, 2023-2024

**S. 1**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Alexander, Turner, Senn, Young, Gustafson, Peeler, Setzler, Rankin, Adams, Bennett, Climer, Campsen and Kimbrell

Companion/Similar bill(s): 238, 586, 3476

Document Path: SR-0075KM23.docx

Introduced in the Senate on January 10, 2023

Introduced in the House on February 28, 2023

Last Amended on February 22, 2023

Currently residing in the Senate

Summary: Drug-Induced Homicide

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/30/2022 Senate Prefiled

11/30/2022 Senate Referred to Committee on **Judiciary**

1/10/2023 Senate Introduced and read first time ([Senate Journal‑page 16](h:\sj\20230110.docx))

1/10/2023 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 16](h:\sj\20230110.docx))

1/12/2023 Senate Referred to Subcommittee: Hutto (ch), Matthews,
Rice, Senn, Adams

2/1/2023 Senate Committee report: Favorable **Judiciary** ([Senate Journal‑page 8](h:\sj\20230201.docx))

2/2/2023 Scrivener's error corrected

2/7/2023 Senate Amended ([Senate Journal‑page 10](h:\sj\20230207.docx))

2/22/2023 Senate Amended ([Senate Journal‑page 24](h:\sj\20230222.docx))

2/22/2023 Senate Read second time ([Senate Journal‑page 24](h:\sj\20230222.docx))

2/22/2023 Senate Roll call Ayes-43 Nays-0 ([Senate Journal‑page 24](h:\sj\20230222.docx))

2/23/2023 Senate Read third time and sent to House ([Senate Journal‑page 6](h:\sj\20230223.docx))

2/28/2023 House Introduced and read first time ([House Journal‑page 9](h:\hj\20230228.docx))

2/28/2023 House Referred to Committee on **Judiciary** ([House Journal‑page 9](h:\hj\20230228.docx))

5/1/2024 House Committee report: Favorable with amendment **Judiciary**

5/2/2024 House Requests for debate-Rep(s). W Newton, Rutherford,
Hiott, Guest, West, Sandifer, Murphy,
Spann-Wilder, Mitchell, Erickson, Weeks

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**VERSIONS OF THIS BILL**

[12/01/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/1_20221201.docx)

[02/01/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/1_20230201.docx)

[02/02/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/1_20230202.docx)

[02/07/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/1_20230207.docx)

[02/07/2023-A](https://www.scstatehouse.gov/sess125_2023-2024/prever/1_20230207a.docx)

[02/22/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/1_20230222.docx)

[05/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1_20240501.docx)

Committee Report

May 01, 2024

S. 1

Introduced by Senators Alexander, Turner, Senn, Young, Gustafson, Peeler, Setzler, Rankin, Adams, Bennett, Climer, Campsen and Kimbrell

S. Printed 05/01/24--H.

Read the first time February 28, 2023

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The committee on House Judiciary

To whom was referred a Bill (S. 1) to amend the South Carolina Code of Laws by adding Section 16-3-80 so as to create the offense of drug-induced homicide, to provide a penalty for a violation, and, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

SECTION 1. Article 1, Chapter 3, Title 16 of the S.C. Code is amended by adding:

Section 16-3-80. (A) A person who, in exchange of anything of value, knowingly and unlawfully delivers, dispenses, or otherwise provides fentanyl or a fentanyl-related substance as defined in Section 44-53-190(B) and Section 44-53-210(c)(6) to another person, in violation of the provisions of Section 44-53-370, commits the felony offense of fentanyl-induced homicide if the proximate cause of the death of any other person is the injection, inhalation, absorption, or ingestion of any amount of the fentanyl or fentanyl-related substance that was unlawfully delivered, dispensed, or otherwise provided.

(B) A person convicted of a fentanyl-induced homicide pursuant to the provisions of this section must be imprisoned not more than thirty years.

(C) It is not a defense pursuant to this section that a decedent contributed to his own death by his purposeful, knowing, reckless, or negligent injection, inhalation, absorption, or ingestion of the controlled substance or by his consenting to the administration of the controlled substance by another person, unless there exists clear and convincing evidence that the decedent intended to commit suicide. A person charged with a violation of this section may also be charged for any other applicable drug-related offense to include an assisted suicide pursuant to the provisions of Section 16-3-1090.

(D) This section does not apply to a person who shares any drug or substance without knowledge that the drug or substance contains fentanyl or a fentanyl-related substance.

(E) For purposes of this section only, a person must not be charged under this section or Section 44-53-370 if they otherwise act in conformance with Article 19, Chapter 53, of Title 44 except a person who violates subsection (A) with knowledge that the substance contained fentanyl or a fentanyl-related substance.

SECTION 2. Section 16-1-10(D) of the S.C. Code is amended by adding a new offense to read:

Section 16-3-80. Fentanyl-induced homicide

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent, or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

W. NEWTON for Committee.

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A bill

to amend the South Carolina Code of Laws by adding Section 16-3-80 so as to CREATE THE OFFENSE OF DRUG-INDUCED HOMICIDE, TO PROVIDE A PENALTY FOR A VIOLATION, AND TO PROHIBIT AN AFFIRMATIVE DEFENSE; by amending Section 16-1-10, relating to A LIST OF EXCEPTIONS FOR FELONIES AND MISDEMEANORS, so as to ADD DRUG-INDUCED HOMICIDE; and by amending Section 44-53-190, relating to Schedule I drugs, so as to add Fentanyl-related substances.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 3, Title 16 of the S.C. Code is amended by adding:

Section 16-3-80. (A) A person who knowingly and unlawfully delivers, dispenses, or otherwise provides fentanyl or a fentanyl-related substance as defined in Section 44-53-190(B) and Section 44-53-210(c)(6) to another person, in violation of the provisions of Section 44-53-370, commits the felony offense of fentanyl-induced homicide if the proximate cause of the death of any other person is the injection, inhalation, absorption, or ingestion of any amount of the fentanyl or fentanyl-related substance that was unlawfully delivered, dispensed, or otherwise provided.

(B) A person convicted of a fentanyl-induced homicide pursuant to the provisions of this section must be imprisoned not more than thirty years.

(C) It is not a defense pursuant to this section that a decedent contributed to his own death by his purposeful, knowing, reckless, or negligent injection, inhalation, absorption, or ingestion of the controlled substance or by his consenting to the administration of the controlled substance by another person, unless there exists clear and convincing evidence that the decedent intended to commit suicide. A person charged with a violation of this section may also be charged for any other applicable drug-related offense to include an assisted suicide pursuant to the provisions of Section 16-3-1090.

SECTION 2. Section 16-1-10(D) of the S.C. Code is amended by adding a new offense to read:

Section 16-3-80. Fentanyl-induced homicide

SECTION 3. Section 44‑53‑190(B) of the S.C. Code is amended by adding:

48. Fentanyl‑related substances. Unless specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, any material, compound, mixture, or preparation, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers, that is structurally related to fentanyl by one or more of the following modifications:

(a) replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

(b) substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino or nitro groups;

(c) substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;

(d) replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or

(e) replacement of the N‑propionyl group by another acyl group or hydrogen.

This definition includes, but is not limited to, the following substances: Methylacetyl fentanyl, Alpha‑methylfentanyl, Methylthiofentanyl, Benzylfentanyl, Beta‑hydroxyfentanyl, Beta‑hydroxy‑3‑methylfentanyl, 3‑Methylfentanyl, Methylthiofentanyl, Fluorofentanyl, Thenylfentanyl or Thienyl fentanyl, Thiofentanyl, Acetylfentanyl, Butyrylfentanyl, Beta‑Hydroxythiofentanyl, Lofentanil, Ocfentanil, Ohmfentanyl, Benzodioxolefentanyl, Furanyl fentanyl, Pentanoyl fentanyl, Cyclopentyl fentanyl, Isobutyryl fentanyl, Remifentanil, Crotonyl fentanyl, Cyclopropyl fentanyl, Valeryl fentanyl, Fluorobutyryl fentanyl, Fluoroisobutyryl fentanyl, Methoxybutyryl Fentanyl, Isobutyryl fentanyl, Chloroisobutyryl fentanyl, Acryl fentanyl, Tetrahydrofuran fentanyl, Methoxyacetyl fentanyl, Fluorocrotonyl fentanyl, Cyclopentenyl fentanyl, Phenyl fentanyl, Cyclobutyl fentanyl, Methylcyclopropyl fenantyl.

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent, or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. This act takes effect upon approval by the Governor.

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