

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

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H.B. No. 6

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the designation of poisoning with a controlled  
3 substance included in Penalty Group 1-B for purposes of the death  
4 certificate and to the criminal penalties for certain controlled  
5 substance offenses; creating criminal offenses; increasing a  
6 criminal penalty.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Section 193.005, Health and Safety Code, is  
9 amended by adding Subsections (e-1) and (e-2) to read as follows:

10 (e-1) For purposes of Subsection (e-2), "poisoning" occurs  
11 when:

12 (1) a toxicology examination reveals one or more  
13 controlled substances included in Penalty Group 1-B present in the  
14 body of the decedent in an amount or concentration that is  
15 considered to be lethal by generally accepted scientific standards;  
16 and

17 (2) if an autopsy is performed, the results of the  
18 autopsy performed on the decedent are consistent with one or more  
19 controlled substances included in Penalty Group 1-B as the cause of  
20 death.

21 (e-2) In the event of poisoning as described by Subsection  
22 (e-1), the medical certification on the death certificate must:

23 (1) list "(name of the Penalty Group 1-B substance or  
24 substances) poisoning" as the cause of death; and

1           (2) except as otherwise specifically established by  
2 the medical examiner, list "homicide" as the manner of death.

3           SECTION 2. Section 481.102, Health and Safety Code, is  
4 amended to read as follows:

5           Sec. 481.102. PENALTY GROUP 1. Penalty Group 1 consists  
6 of:

7           (1) the following opiates, including their isomers,  
8 esters, ethers, salts, and salts of isomers, esters, and ethers,  
9 unless specifically excepted, if the existence of these isomers,  
10 esters, ethers, and salts is possible within the specific chemical  
11 designation:

12                   ~~[Alfentanil,]~~

13                   Allylprodine;

14                   Alphacetylmethadol;

15                   Benzethidine;

16                   Betaprodine;

17                   Clonitazene;

18                   Diampromide;

19                   Diethylthiambutene;

20                   Difenoxin not listed in Penalty Group 3 or 4;

21                   Dimenoxadol;

22                   Dimethylthiambutene;

23                   Dioxaphetyl butyrate;

24                   Dipipanone;

25                   Ethylmethylthiambutene;

26                   Etonitazene;

27                   Etoxeridine;

- 1 Furethidine;
- 2 Hydroxypethidine;
- 3 Ketobemidone;
- 4 Levophenacymorphan;
- 5 Meprodine;
- 6 Methadol;
- 7 Moramide;
- 8 Morpheridine;
- 9 Noracymethadol;
- 10 Norlevorphanol;
- 11 Normethadone;
- 12 Norpipanone;
- 13 Phenadoxone;
- 14 Phenampromide;
- 15 Phenomorphan;
- 16 Phenoperidine;
- 17 Piritramide;
- 18 Proheptazine;
- 19 Properidine;
- 20 Propiram;
- 21 [~~Sufentanil~~];
- 22 Tilidine; and
- 23 Trimeperidine;

24 (2) the following opium derivatives, their salts,  
25 isomers, and salts of isomers, unless specifically excepted, if the  
26 existence of these salts, isomers, and salts of isomers is possible  
27 within the specific chemical designation:

- 1 Acetorphine;
- 2 Acetyldihydrocodeine;
- 3 Benzylmorphine;
- 4 Codeine methylbromide;
- 5 Codeine-N-Oxide;
- 6 Cyprenorphine;
- 7 Desomorphine;
- 8 Dihydromorphine;
- 9 Drotebanol;
- 10 Etorphine, except hydrochloride salt;
- 11 Heroin;
- 12 Hydromorphenol;
- 13 Methyldesorphine;
- 14 Methyldihydromorphine;
- 15 Monoacetylmorphine;
- 16 Morphine methylbromide;
- 17 Morphine methylsulfonate;
- 18 Morphine-N-Oxide;
- 19 Myrophine;
- 20 Nicocodeine;
- 21 Nicomorphine;
- 22 Normorphine;
- 23 Pholcodine; and
- 24 Thebacon;

25 (3) the following substances, however produced,  
26 except those narcotic drugs listed in another group:

- 27 (A) Opium and opiate not listed in Penalty Group

1 3 or 4, and a salt, compound, derivative, or preparation of opium or  
2 opiate, other than thebaine derived butorphanol, nalmeffene and its  
3 salts, naloxone and its salts, and naltrexone and its salts, but  
4 including:

- 5 Codeine not listed in Penalty Group 3 or 4;
- 6 Dihydroetorphine;
- 7 Ethylmorphine not listed in Penalty Group 3  
8 or 4;
- 9 Granulated opium;
- 10 Hydrocodone not listed in Penalty Group 3;
- 11 Hydromorphone;
- 12 Metopon;
- 13 Morphine not listed in Penalty Group 3;
- 14 Opium extracts;
- 15 Opium fluid extracts;
- 16 Oripavine;
- 17 Oxycodone;
- 18 Oxymorphone;
- 19 Powdered opium;
- 20 Raw opium;
- 21 Thebaine; and
- 22 Tincture of opium;

23 (B) a salt, compound, isomer, derivative, or  
24 preparation of a substance that is chemically equivalent or  
25 identical to a substance described by Paragraph (A), other than the  
26 isoquinoline alkaloids of opium;

27 (C) Opium poppy and poppy straw;

- 1 (D) Cocaine, including:
- 2 (i) its salts, its optical, position, and  
3 geometric isomers, and the salts of those isomers;
- 4 (ii) coca leaves and a salt, compound,  
5 derivative, or preparation of coca leaves; and
- 6 (iii) a salt, compound, derivative, or  
7 preparation of a salt, compound, or derivative that is chemically  
8 equivalent or identical to a substance described by Subparagraph  
9 (i) or (ii), other than decocainized coca leaves or extractions of  
10 coca leaves that do not contain cocaine or ecgonine; and
- 11 (E) concentrate of poppy straw, meaning the crude  
12 extract of poppy straw in liquid, solid, or powder form that  
13 contains the phenanthrine alkaloids of the opium poppy;
- 14 (4) the following opiates, including their isomers,  
15 esters, ethers, salts, and salts of isomers, if the existence of  
16 these isomers, esters, ethers, and salts is possible within the  
17 specific chemical designation:
- 18 ~~[Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-~~  
19 ~~phenethyl)-4-piperidinyl]-N-phenylacetamide),~~
- 20 ~~[Alpha-methylthiofentanyl (N-[1-methyl-2-(2-~~  
21 ~~thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide),]~~
- 22 Alphaprodine;
- 23 Anileridine;
- 24 ~~[Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-~~  
25 ~~phenethyl)-4-piperidinyl]-N-phenylpropanamide),~~
- 26 ~~[Beta-hydroxy-3-methylfentanyl,~~
- 27 Bezitramide;

1                   ~~[Carfentanil,]~~  
2                   Dihydrocodeine not listed in Penalty Group 3 or 4;  
3                   Diphenoxylate not listed in Penalty Group 3 or 4;  
4                   Isomethadone;  
5                   Levomethorphan;  
6                   Levorphanol;  
7                   Metazocine;  
8                   Methadone;  
9                   Methadone-Intermediate, 4-cyano-2-dimethylamino-  
10 4, 4-diphenyl butane;  
11                   ~~[3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-~~  
12 ~~4-piperidyl]-N-phenylpropanamide),~~  
13                   ~~[3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)~~  
14 ~~ethyl-4-piperidinyl]-N-phenylpropanamide),]~~  
15                   Moramide-Intermediate, 2-methyl-3-morpholino-1,  
16 1-diphenyl-propane-carboxylic acid;  
17                   ~~[Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-~~  
18 ~~phenylethyl)-4-piperidinylpropanamide),]~~  
19                   PEPAP   (1-(2-phenethyl)-4-phenyl-4-  
20 acetoxypiperidine);  
21                   Pethidine (Meperidine);  
22                   Pethidine-Intermediate-A,           4-cyano-1-methyl-4-  
23 phenylpiperidine;  
24                   Pethidine-Intermediate-B,   ethyl-4-  
25 phenylpiperidine-4 carboxylate;  
26                   Pethidine-Intermediate-C,   1-methyl-4-  
27 phenylpiperidine-4-carboxylic acid;

- 1                   Phenazocine;
- 2                   Piminodine;
- 3                   Racemethorphan; and
- 4                   Racemorphan;
- 5                   ~~[Remifentanil; and~~
- 6                   ~~[Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-~~
- 7 ~~piperidinyl]-propanamide),]~~
- 8                   (5) Flunitrazepam (trade or other name: Rohypnol);
- 9                   (6) Methamphetamine, including its salts, optical
- 10 isomers, and salts of optical isomers;
- 11                   (7) Phenylacetone and methylamine, if possessed
- 12 together with intent to manufacture methamphetamine;
- 13                   (8) Phencyclidine, including its salts;
- 14                   (9) Gamma hydroxybutyric acid (some trade or other
- 15 names: gamma hydroxybutyrate, GHB), including its salts;
- 16                   (10) Ketamine;
- 17                   (11) Phenazepam;
- 18                   (12) U-47700;
- 19                   (13) AH-7921;
- 20                   (14) ADB-FUBINACA;
- 21                   (15) AMB-FUBINACA; and
- 22                   (16) MDMB-CHMICA.

23           SECTION 3. Section 481.1022, Health and Safety Code, is  
24 amended to read as follows:

25           Sec. 481.1022. PENALTY GROUP 1-B. Penalty Group 1-B  
26 consists of the following opiates, including their isomers, esters,  
27 ethers, salts, and salts of isomers, esters, and ethers, if the



1 existence of these isomers, esters, ethers, and salts is possible  
2 within the specific chemical designation:

3 Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-  
4 phenethyl)-4-piperidinyl]-N-phenylacetamide);

5 Alfentanil;

6 Alpha-methylthiofentanyl (N-[1-methyl-2-(2-  
7 thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

8 Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-  
9 phenethyl)-4-piperidinyl]-N-phenylpropanamide);

10 Beta-hydroxy-3-methylfentanyl;

11 Carfentanil;

12 Fentanyl [~~fentanyl~~], alpha-methylfentanyl, and  
13 any other derivative of fentanyl;

14 3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-  
15 4-piperidyl]-N-phenylpropanamide);

16 3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)  
17 ethyl-4-piperidinyl]-N-phenylpropanamide);

18 Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-  
19 phenylethyl)-4-piperidinylpropanamide);

20 Remifentanil;

21 Sufentanil; and

22 Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-  
23 piperidinyl]-propanamide).

24 SECTION 4. Sections 481.112(e) and (f), Health and Safety  
25 Code, are amended to read as follows:

26 (e) An offense under Subsection (a) is a felony of the first  
27 degree punishable by imprisonment in the Texas Department of

1 Criminal Justice for life or for a term of not more than 99 years or  
2 less than 10 years, and a fine not to exceed \$100,000, if the amount  
3 of the controlled substance to which the offense applies is, by  
4 aggregate weight, including adulterants or dilutants, 200 grams or  
5 more but less than 400 grams.

6 (f) An offense under Subsection (a) is a felony of the first  
7 degree punishable by imprisonment in the Texas Department of  
8 Criminal Justice for life or for a term of not more than 99 years or  
9 less than 15 years, and a fine not to exceed \$250,000, if the amount  
10 of the controlled substance to which the offense applies is, by  
11 aggregate weight, including adulterants or dilutants, 400 grams or  
12 more.

13 SECTION 5. Section 481.1121(b), Health and Safety Code, is  
14 amended to read as follows:

15 (b) An offense under this section is:

16 (1) a state jail felony if the number of abuse units of  
17 the controlled substance is fewer than 20;

18 (2) a felony of the second degree if the number of  
19 abuse units of the controlled substance is 20 or more but fewer than  
20 80;

21 (3) a felony of the first degree if the number of abuse  
22 units of the controlled substance is 80 or more but fewer than  
23 4,000; and

24 (4) a felony of the first degree punishable by  
25 imprisonment in the Texas Department of Criminal Justice for life  
26 or for a term of not more than 99 years or less than 15 years and a  
27 fine not to exceed \$250,000, if the number of abuse units of the

1 controlled substance is 4,000 or more.

2 SECTION 6. Sections 481.1123(b), (d), (e), and (f), Health  
3 and Safety Code, are amended to read as follows:

4 (b) An offense under Subsection (a) is a [~~state-jail~~] felony  
5 of the third degree if the amount of the controlled substance to  
6 which the offense applies is, by aggregate weight, including  
7 adulterants or dilutants, less than one gram.

8 (d) An offense under Subsection (a) is a felony of the first  
9 degree punishable by imprisonment in the Texas Department of  
10 Criminal Justice for life or for a term of not more than 99 years or  
11 less than 10 years, and a fine not to exceed \$20,000, if the amount  
12 of the controlled substance to which the offense applies is, by  
13 aggregate weight, including adulterants or dilutants, four grams or  
14 more but less than 200 grams.

15 (e) An offense under Subsection (a) is a felony of the first  
16 degree punishable by imprisonment in the Texas Department of  
17 Criminal Justice for life or for a term of not more than 99 years or  
18 less than 15 years, and a fine not to exceed \$200,000, if the amount  
19 of the controlled substance to which the offense applies is, by  
20 aggregate weight, including adulterants or dilutants, 200 grams or  
21 more but less than 400 grams.

22 (f) An offense under Subsection (a) is a felony of the first  
23 degree punishable by imprisonment in the Texas Department of  
24 Criminal Justice for life or for a term of not more than 99 years or  
25 less than 20 years, and a fine not to exceed \$500,000, if the amount  
26 of the controlled substance to which the offense applies is, by  
27 aggregate weight, including adulterants or dilutants, 400 grams or

1 more.

2 SECTION 7. Section 481.113(e), Health and Safety Code, is  
3 amended to read as follows:

4 (e) An offense under Subsection (a) is a felony of the first  
5 degree punishable by imprisonment in the Texas Department of  
6 Criminal Justice for life or for a term of not more than 99 years or  
7 less than 10 years, and a fine not to exceed \$100,000, if the amount  
8 of the controlled substance to which the offense applies is, by  
9 aggregate weight, including adulterants or dilutants, 400 grams or  
10 more.

11 SECTION 8. Section 481.114(e), Health and Safety Code, is  
12 amended to read as follows:

13 (e) An offense under Subsection (a) is a felony of the first  
14 degree punishable by imprisonment in the Texas Department of  
15 Criminal Justice for life or for a term of not more than 99 years or  
16 less than 10 years, and a fine not to exceed \$100,000, if the amount  
17 of the controlled substance to which the offense applies is, by  
18 aggregate weight, including any adulterants or dilutants, 400 grams  
19 or more.

20 SECTION 9. Section 481.115(f), Health and Safety Code, is  
21 amended to read as follows:

22 (f) An offense under Subsection (a) is a felony of the first  
23 degree punishable by imprisonment in the Texas Department of  
24 Criminal Justice for life or for a term of not more than 99 years or  
25 less than 10 years, and a fine not to exceed \$100,000, if the amount  
26 of the controlled substance possessed is, by aggregate weight,  
27 including adulterants or dilutants, 400 grams or more.

1 SECTION 10. Section 481.1151(b), Health and Safety Code, is  
2 amended to read as follows:

3 (b) An offense under this section is:

4 (1) a state jail felony if the number of abuse units of  
5 the controlled substance is fewer than 20;

6 (2) a felony of the third degree if the number of abuse  
7 units of the controlled substance is 20 or more but fewer than 80;

8 (3) a felony of the second degree if the number of  
9 abuse units of the controlled substance is 80 or more but fewer than  
10 4,000;

11 (4) a felony of the first degree if the number of abuse  
12 units of the controlled substance is 4,000 or more but fewer than  
13 8,000; and

14 (5) a felony of the first degree punishable by  
15 imprisonment in the Texas Department of Criminal Justice for life  
16 or for a term of not more than 99 years or less than 15 years and a  
17 fine not to exceed \$250,000, if the number of abuse units of the  
18 controlled substance is 8,000 or more.

19 SECTION 11. Section 481.116(e), Health and Safety Code, is  
20 amended to read as follows:

21 (e) An offense under Subsection (a) is a felony of the first  
22 degree punishable by imprisonment in the Texas Department of  
23 Criminal Justice for life or for a term of not more than 99 years or  
24 less than five years, and a fine not to exceed \$50,000, if the  
25 amount of the controlled substance possessed is, by aggregate  
26 weight, including adulterants or dilutants, 400 grams or more.

27 SECTION 12. Section 481.1161(b), Health and Safety Code, is

1 amended to read as follows:

2 (b) An offense under this section is:

3 (1) a Class B misdemeanor if the amount of the  
4 controlled substance possessed is, by aggregate weight, including  
5 adulterants or dilutants, two ounces or less;

6 (2) a Class A misdemeanor if the amount of the  
7 controlled substance possessed is, by aggregate weight, including  
8 adulterants or dilutants, four ounces or less but more than two  
9 ounces;

10 (3) a state jail felony if the amount of the controlled  
11 substance possessed is, by aggregate weight, including adulterants  
12 or dilutants, five pounds or less but more than four ounces;

13 (4) a felony of the third degree if the amount of the  
14 controlled substance possessed is, by aggregate weight, including  
15 adulterants or dilutants, 50 pounds or less but more than 5 pounds;

16 (5) a felony of the second degree if the amount of the  
17 controlled substance possessed is, by aggregate weight, including  
18 adulterants or dilutants, 2,000 pounds or less but more than 50  
19 pounds; and

20 (6) a felony of the first degree punishable by  
21 imprisonment in the Texas Department of Criminal Justice for life  
22 or for a term of not more than 99 years or less than 5 years, and a  
23 fine not to exceed \$50,000, if the amount of the controlled  
24 substance possessed is, by aggregate weight, including adulterants  
25 or dilutants, more than 2,000 pounds.

26 SECTION 13. Section 481.117(e), Health and Safety Code, is  
27 amended to read as follows:

1           (e) An offense under Subsection (a) is a felony of the first  
2 degree punishable by imprisonment in the Texas Department of  
3 Criminal Justice for life or for a term of not more than 99 years or  
4 less than five years, and a fine not to exceed \$50,000, if the  
5 amount of the controlled substance possessed is, by aggregate  
6 weight, including adulterants or dilutants, 400 grams or more.

7           SECTION 14. Section 481.118(e), Health and Safety Code, is  
8 amended to read as follows:

9           (e) An offense under Subsection (a) is a felony of the first  
10 degree punishable by imprisonment in the Texas Department of  
11 Criminal Justice for life or for a term of not more than 99 years or  
12 less than five years, and a fine not to exceed \$50,000, if the  
13 amount of the controlled substance possessed is, by aggregate  
14 weight, including adulterants or dilutants, 400 grams or more.

15           SECTION 15. Section 481.120(b), Health and Safety Code, is  
16 amended to read as follows:

17           (b) An offense under Subsection (a) is:

18                   (1) a Class B misdemeanor if the amount of marihuana  
19 delivered is one-fourth ounce or less and the person committing the  
20 offense does not receive remuneration for the marihuana;

21                   (2) a Class A misdemeanor if the amount of marihuana  
22 delivered is one-fourth ounce or less and the person committing the  
23 offense receives remuneration for the marihuana;

24                   (3) a state jail felony if the amount of marihuana  
25 delivered is five pounds or less but more than one-fourth ounce;

26                   (4) a felony of the second degree if the amount of  
27 marihuana delivered is 50 pounds or less but more than five pounds;

1           (5) a felony of the first degree if the amount of  
2 marihuana delivered is 2,000 pounds or less but more than 50 pounds;  
3 and

4           (6) a felony of the first degree punishable by  
5 imprisonment in the Texas Department of Criminal Justice for life  
6 or for a term of not more than 99 years or less than 10 years, and a  
7 fine not to exceed \$100,000, if the amount of marihuana delivered is  
8 more than 2,000 pounds.

9           SECTION 16. Section 481.121(b), Health and Safety Code, is  
10 amended to read as follows:

11           (b) An offense under Subsection (a) is:

12           (1) a Class B misdemeanor if the amount of marihuana  
13 possessed is two ounces or less;

14           (2) a Class A misdemeanor if the amount of marihuana  
15 possessed is four ounces or less but more than two ounces;

16           (3) a state jail felony if the amount of marihuana  
17 possessed is five pounds or less but more than four ounces;

18           (4) a felony of the third degree if the amount of  
19 marihuana possessed is 50 pounds or less but more than 5 pounds;

20           (5) a felony of the second degree if the amount of  
21 marihuana possessed is 2,000 pounds or less but more than 50 pounds;  
22 and

23           (6) a felony of the first degree punishable by  
24 imprisonment in the Texas Department of Criminal Justice for life  
25 or for a term of not more than 99 years or less than 5 years, and a  
26 fine not to exceed \$50,000, if the amount of marihuana possessed is  
27 more than 2,000 pounds.



1 SECTION 17. Section 481.126(a), Health and Safety Code, is  
2 amended to read as follows:

3 (a) A person commits an offense if the person:

4 (1) barter property or expends funds the person knows  
5 are derived from the commission of a first degree felony [~~an~~  
6 offense under this chapter punishable by imprisonment in the Texas  
7 Department of Criminal Justice for life;

8 (2) barter property or expends funds the person knows  
9 are derived from the commission of an offense under Section  
10 481.121(a) that is punishable under Section 481.121(b)(5);

11 (3) barter property or finances or invests funds the  
12 person knows or believes are intended to further the commission of  
13 an offense for which the punishment is described by Subdivision  
14 (1); or

15 (4) barter property or finances or invests funds the  
16 person knows or believes are intended to further the commission of  
17 an offense under Section 481.121(a) that is punishable under  
18 Section 481.121(b)(5).

19 SECTION 18. Section 481.134(c), Health and Safety Code, as  
20 amended by Chapters 584 (S.B. 768) and 807 (H.B. 1540), Acts of the  
21 87th Legislature, Regular Session, 2021, is reenacted and amended  
22 to read as follows:

23 (c) The minimum term of confinement or imprisonment for an  
24 offense otherwise punishable under Section 481.112(c), (d), (e), or  
25 (f), 481.1121(b)(2), (3), or (4), 481.1123(b), (c) [~~481.1123(c)~~],  
26 (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),  
27 481.115(c)-(f), 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d),

1 or (e), 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e),  
2 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or  
3 481.121(b)(4), (5), or (6) is increased by five years and the  
4 maximum fine for the offense is doubled if it is shown on the trial  
5 of the offense that the offense was committed:

6 (1) in, on, or within 1,000 feet of the premises of a  
7 school, the premises of a public or private youth center, or a  
8 playground;

9 (2) on a school bus; or

10 (3) by any unauthorized person 18 years of age or  
11 older, in, on, or within 1,000 feet of premises owned, rented, or  
12 leased by a general residential operation operating as a  
13 residential treatment center.

14 SECTION 19. Section 481.141, Health and Safety Code, is  
15 amended by adding Subsection (d) to read as follows:

16 (d) Punishment may not be increased under this section if  
17 the defendant is also prosecuted under Section 19.02(b)(4),  
18 19.04(a-1), or 19.05(a-1), Penal Code, for conduct occurring during  
19 the same criminal episode.

20 SECTION 20. Section 19.02, Penal Code, is amended by  
21 amending Subsection (b) and adding Subsection (e) to read as  
22 follows:

23 (b) A person commits an offense if the person [~~he~~]:

24 (1) intentionally or knowingly causes the death of an  
25 individual;

26 (2) intends to cause serious bodily injury and commits  
27 an act clearly dangerous to human life that causes the death of an

1 individual; ~~[or]~~

2 (3) commits or attempts to commit a felony, other than  
3 manslaughter, and in the course of and in furtherance of the  
4 commission or attempt, or in immediate flight from the commission  
5 or attempt, the person ~~[he]~~ commits or attempts to commit an act  
6 clearly dangerous to human life that causes the death of an  
7 individual; or

8 (4) knowingly manufactures or delivers a controlled  
9 substance included in Penalty Group 1-B under Section 481.1022,  
10 Health and Safety Code, in violation of Section 481.1123, Health  
11 and Safety Code, and an individual dies as a result of injecting,  
12 ingesting, inhaling, or introducing into the individual's body any  
13 amount of the controlled substance manufactured or delivered by the  
14 actor, regardless of whether the controlled substance was used by  
15 itself or with another substance, including a drug, adulterant, or  
16 dilutant.

17 (e) It is a defense to prosecution under Subsection (b)(4)  
18 that the actor's conduct in manufacturing or delivering the  
19 controlled substance was authorized under Chapter 481, Health and  
20 Safety Code, or other state or federal law.

21 SECTION 21. Section 19.04, Penal Code, is amended by adding  
22 Subsections (a-1) and (c) to read as follows:

23 (a-1) A person commits an offense if the person recklessly  
24 manufactures or delivers a controlled substance included in Penalty  
25 Group 1-B under Section 481.1022, Health and Safety Code, in  
26 violation of Section 481.1123, Health and Safety Code, and an  
27 individual dies as a result of injecting, ingesting, inhaling, or

1 introducing into the individual's body any amount of the controlled  
2 substance manufactured or delivered by the actor, regardless of  
3 whether the controlled substance was used by itself or with another  
4 substance, including a drug, adulterant, or dilutant.

5 (c) It is a defense to prosecution under Subsection (a-1)  
6 that the actor's conduct in manufacturing or delivering the  
7 controlled substance was authorized under Chapter 481, Health and  
8 Safety Code, or other state or federal law.

9 SECTION 22. Section 19.05, Penal Code, is amended by adding  
10 Subsections (a-1) and (c) to read as follows:

11 (a-1) A person commits an offense if the person with  
12 criminal negligence manufactures or delivers a controlled  
13 substance included in Penalty Group 1-B under Section 481.1022,  
14 Health and Safety Code, in violation of Section 481.1123, Health  
15 and Safety Code, and an individual dies as a result of injecting,  
16 ingesting, inhaling, or introducing into the individual's body any  
17 amount of the controlled substance manufactured or delivered by the  
18 actor, regardless of whether the controlled substance was used by  
19 itself or with another substance, including a drug, adulterant, or  
20 dilutant.

21 (c) It is a defense to prosecution under Subsection (a-1)  
22 that the actor's conduct in manufacturing or delivering the  
23 controlled substance was authorized under Chapter 481, Health and  
24 Safety Code, or other state or federal law.

25 SECTION 23. Section 71.02(a), Penal Code, is amended to  
26 read as follows:

27 (a) A person commits an offense if, with the intent to

1 establish, maintain, or participate in a combination or in the  
2 profits of a combination or as a member of a criminal street gang,  
3 the person commits or conspires to commit one or more of the  
4 following:

5 (1) murder, capital murder, arson, aggravated  
6 robbery, robbery, burglary, theft, aggravated kidnapping,  
7 kidnapping, aggravated assault, aggravated sexual assault, sexual  
8 assault, continuous sexual abuse of young child or disabled  
9 individual, solicitation of a minor, forgery, deadly conduct,  
10 assault punishable as a Class A misdemeanor, burglary of a motor  
11 vehicle, or unauthorized use of a motor vehicle;

12 (2) any gambling offense punishable as a Class A  
13 misdemeanor;

14 (3) promotion of prostitution, aggravated promotion  
15 of prostitution, or compelling prostitution;

16 (4) unlawful manufacture, transportation, repair, or  
17 sale of firearms or prohibited weapons;

18 (5) unlawful manufacture, delivery, dispensation, or  
19 distribution of a controlled substance or dangerous drug, or  
20 unlawful possession of a controlled substance or dangerous drug  
21 through forgery, fraud, misrepresentation, or deception;

22 (5-a) causing the unlawful delivery, dispensation, or  
23 distribution of a controlled substance or dangerous drug in  
24 violation of Subtitle B, Title 3, Occupations Code;

25 (5-b) unlawful possession with intent to deliver a  
26 controlled substance listed in Penalty Group 1-B under Section  
27 481.1022, Health and Safety Code;

1           (6) any unlawful wholesale promotion or possession of  
2 any obscene material or obscene device with the intent to wholesale  
3 promote the same;

4           (7) any offense under Subchapter B, Chapter 43,  
5 depicting or involving conduct by or directed toward a child  
6 younger than 18 years of age;

7           (8) any felony offense under Chapter 32;

8           (9) any offense under Chapter 36;

9           (10) any offense under Chapter 34, 35, or 35A;

10          (11) any offense under Section 37.11(a);

11          (12) any offense under Chapter 20A;

12          (13) any offense under Section 37.10;

13          (14) any offense under Section 38.06, 38.07, 38.09, or  
14 38.11;

15          (15) any offense under Section 42.10;

16          (16) any offense under Section 46.06(a)(1) or 46.14;

17          (17) any offense under Section 20.05 or 20.06;

18          (18) any offense under Section 16.02; or

19          (19) any offense classified as a felony under the Tax  
20 Code.

21          SECTION 24. The change in law made by this Act to Section  
22 193.005, Health and Safety Code, applies only to a death that occurs  
23 on or after the effective date of this Act, or a death that occurs  
24 before that date but is discovered on or after the effective date of  
25 this Act.

26          SECTION 25. The changes in law made by this Act to Chapter  
27 481, Health and Safety Code, and Sections 19.02, 19.04, 19.05, and

1 71.02, Penal Code, apply only to an offense committed on or after  
2 the effective date of this Act. An offense committed before the  
3 effective date of this Act is governed by the law in effect on the  
4 date the offense was committed, and the former law is continued in  
5 effect for that purpose. For purposes of this section, an offense  
6 was committed before the effective date of this Act if any element  
7 of the offense occurred before that date.

8 SECTION 26. To the extent of any conflict, this Act prevails  
9 over another Act of the 88th Legislature, Regular Session, 2023,  
10 relating to nonsubstantive additions to and corrections in enacted  
11 codes.

12 SECTION 27. This Act takes effect September 1, 2023.

**ADOPTED**

MAY 16 2023

By: Joan Huffman

Latey Spaw Secretary of the Senate H.B. No. 6

Substitute the following for H.B. No. 6:

By: Joan Huffman

C.S. H.B. No. 6

A BILL TO BE ENTITLED

AN ACT

relating to the designation of fentanyl toxicity for purposes of the death certificate and to the criminal penalties for certain controlled substance offenses; increasing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 193.005, Health and Safety Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) The medical certification on a death certificate must include the term "Fentanyl Toxicity" if:

(1) a toxicology examination reveals a controlled substance listed in Penalty Group 1-B present in the body of the decedent in an amount or concentration that is considered to be lethal by generally accepted scientific standards; and

(2) the results of an autopsy performed on the decedent are consistent with an opioid overdose as the cause of death.

SECTION 2. Section 481.102, Health and Safety Code, is amended to read as follows:

Sec. 481.102. PENALTY GROUP 1. Penalty Group 1 consists of:

(1) the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical



1 designation:  
2 [~~Alfentanil,~~]  
3 Allylprodine;  
4 Alphacetylmethadol;  
5 Benzethidine;  
6 Betaprodine;  
7 Clonitazene;  
8 Diampromide;  
9 Diethylthiambutene;  
10 Difenoxin not listed in Penalty Group 3 or 4;  
11 Dimenoxadol;  
12 Dimethylthiambutene;  
13 Dioxaphetyl butyrate;  
14 Dipipanone;  
15 Ethylmethylthiambutene;  
16 Etonitazene;  
17 Etoxeridine;  
18 Furethidine;  
19 Hydroxypethidine;  
20 Ketobemidone;  
21 Levophenacymorphan;  
22 Meprodine;  
23 Methadol;  
24 Moramide;  
25 Morpheridine;  
26 Noracymethadol;  
27 Norlevorphanol;

1 Normethadone;  
2 Norpipanone;  
3 Phenadoxone;  
4 Phenampromide;  
5 Phenomorphan;  
6 Phenoperidine;  
7 Piritramide;  
8 Proheptazine;  
9 Properidine;  
10 Propiram;  
11 [~~Sufentanil,~~]  
12 Tilidine; and  
13 Trimeperidine;

14 (2) the following opium derivatives, their salts,  
15 isomers, and salts of isomers, unless specifically excepted, if the  
16 existence of these salts, isomers, and salts of isomers is possible  
17 within the specific chemical designation:

18 Acetorphine;  
19 Acetyldihydrocodeine;  
20 Benzylmorphine;  
21 Codeine methylbromide;  
22 Codeine-N-Oxide;  
23 Cyprenorphine;  
24 Desomorphine;  
25 Dihydromorphine;  
26 Drotebanol;  
27 Etorphine, except hydrochloride salt;

1 Heroin;  
2 Hydromorphenol;  
3 Methyldesorphine;  
4 Methyldihydromorphine;  
5 Monoacetylmorphine;  
6 Morphine methylbromide;  
7 Morphine methylsulfonate;  
8 Morphine-N-Oxide;  
9 Myrophine;  
10 Nicocodeine;  
11 Nicomorphine;  
12 Normorphine;  
13 Pholcodine; and  
14 Thebacon;

15 (3) the following substances, however produced,  
16 except those narcotic drugs listed in another group:

17 (A) Opium and opiate not listed in Penalty Group  
18 3 or 4, and a salt, compound, derivative, or preparation of opium or  
19 opiate, other than thebaine derived butorphanol, nalmeferine and its  
20 salts, naloxone and its salts, and naltrexone and its salts, but  
21 including:

22 Codeine not listed in Penalty Group 3 or 4;  
23 Dihydroetorphine;  
24 Ethylmorphine not listed in Penalty Group 3  
25 or 4;  
26 Granulated opium;  
27 Hydrocodone not listed in Penalty Group 3;

1                   Hydromorphone;  
2                   Metopon;  
3                   Morphine not listed in Penalty Group 3;  
4                   Opium extracts;  
5                   Opium fluid extracts;  
6                   Oripavine;  
7                   Oxycodone;  
8                   Oxymorphone;  
9                   Powdered opium;  
10                  Raw opium;  
11                  Thebaine; and  
12                  Tincture of opium;  
13                  (B) a salt, compound, isomer, derivative, or  
14 preparation of a substance that is chemically equivalent or  
15 identical to a substance described by Paragraph (A), other than the  
16 isoquinoline alkaloids of opium;  
17                  (C) Opium poppy and poppy straw;  
18                  (D) Cocaine, including:  
19                   (i) its salts, its optical, position, and  
20 geometric isomers, and the salts of those isomers;  
21                   (ii) coca leaves and a salt, compound,  
22 derivative, or preparation of coca leaves; and  
23                   (iii) a salt, compound, derivative, or  
24 preparation of a salt, compound, or derivative that is chemically  
25 equivalent or identical to a substance described by Subparagraph  
26 (i) or (ii), other than decocainized coca leaves or extractions of  
27 coca leaves that do not contain cocaine or ecgonine; and

1 (E) concentrate of poppy straw, meaning the crude  
2 extract of poppy straw in liquid, solid, or powder form that  
3 contains the phenanthrine alkaloids of the opium poppy;

4 (4) the following opiates, including their isomers,  
5 esters, ethers, salts, and salts of isomers, if the existence of  
6 these isomers, esters, ethers, and salts is possible within the  
7 specific chemical designation:

8 ~~[Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-~~  
9 ~~phenethyl)-4-piperidinyl]-N-phenylacetamide),]~~

10 ~~[Alpha-methylthiofentanyl (N-[1-methyl-2-(2-~~  
11 ~~thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide),]~~

12 Alphaprodine;

13 Anileridine;

14 ~~[Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-~~  
15 ~~phenethyl)-4-piperidinyl]-N-phenylpropanamide),]~~

16 ~~[Beta-hydroxy-3-methylfentanyl,]~~

17 Bezitramide;

18 ~~[Carfentanil,]~~

19 Dihydrocodeine not listed in Penalty Group 3 or 4;

20 Diphenoxylate not listed in Penalty Group 3 or 4;

21 Isomethadone;

22 Levomethorphan;

23 Levorphanol;

24 Metazocine;

25 Methadone;

26 Methadone-Intermediate, 4-cyano-2-dimethylamino-  
27 4, 4-diphenyl butane;

1                                   ~~[3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-~~  
2 ~~4-piperidyl]-N-phenylpropanamide),~~  
3                                   ~~[3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)~~  
4 ~~ethyl-4-piperidinyl]-N-phenylpropanamide),]~~  
5                                   Moramide-Intermediate, 2-methyl-3-morpholino-1,  
6 1-diphenyl-propane-carboxylic acid;  
7                                   ~~[Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-~~  
8 ~~phenylethyl)-4-piperidinylpropanamide),]~~  
9                                   PEPAP                                   (1-(2-phenethyl)-4-phenyl-4-  
10 acetoxypiperidine);  
11                                   Pethidine (Meperidine);  
12                                   Pethidine-Intermediate-A,           4-cyano-1-methyl-4-  
13 phenylpiperidine;  
14                                   Pethidine-Intermediate-B,                                   ethyl-4-  
15 phenylpiperidine-4 carboxylate;  
16                                   Pethidine-Intermediate-C,                                   1-methyl-4-  
17 phenylpiperidine-4-carboxylic acid;  
18                                   Phenazocine;  
19                                   Piminodine;  
20                                   Racemethorphan; and  
21                                   Racemorphan;  
22                                   ~~[Remifentanil, and~~  
23                                   ~~[Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-~~  
24 ~~piperidinyl]-propanamide),]~~  
25                                   (5) Flunitrazepam (trade or other name: Rohypnol);  
26                                   (6) Methamphetamine, including its salts, optical  
27 isomers, and salts of optical isomers;

- 1           (7) Phenylacetone and methylamine, if possessed  
2 together with intent to manufacture methamphetamine;  
3           (8) Phencyclidine, including its salts;  
4           (9) Gamma hydroxybutyric acid (some trade or other  
5 names: gamma hydroxybutyrate, GHB), including its salts;  
6           (10) Ketamine;  
7           (11) Phenazepam;  
8           (12) U-47700;  
9           (13) AH-7921;  
10           (14) ADB-FUBINACA;  
11           (15) AMB-FUBINACA; and  
12           (16) MDMB-CHMICA.

13           SECTION 3. Section 481.1022, Health and Safety Code, is  
14 amended to read as follows:

15           Sec. 481.1022. PENALTY GROUP 1-B. Penalty Group 1-B  
16 consists of the following opiates, including their isomers, esters,  
17 ethers, salts, and salts of isomers, esters, and ethers, if the  
18 existence of these isomers, esters, ethers, and salts is possible  
19 within the specific chemical designation:

20                   Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-  
21 phenethyl)-4-piperidinyl]-N-phenylacetamide);

22                   Alfentanil;

23                   Alpha-methylthiofentanyl (N-[1-methyl-2-(2-  
24 thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

25                   Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-  
26 phenethyl)-4-piperidinyl] -N-phenylpropanamide);

27                   Beta-hydroxy-3-methylfentanyl;

1                   Carfentanil;  
2                   Fentanyl [~~fentanyl~~], alpha-methylfentanyl, and  
3 any other derivative of fentanyl;  
4                   3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-  
5 4-piperidyl]-N-phenylpropanamide);  
6                   3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)  
7 ethyl-4-piperidinyl]-N-phenylpropanamide);  
8                   Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-  
9 phenylethyl)-4-piperidinylpropanamide);  
10                  Remifentanil;  
11                  Sufentanil; and  
12                  Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-  
13 piperidinyl]-propanamide).

14           SECTION 4. Sections 481.112(e) and (f), Health and Safety  
15 Code, are amended to read as follows:

16           (e) An offense under Subsection (a) is a felony of the first  
17 degree punishable by imprisonment in the Texas Department of  
18 Criminal Justice for life or for a term of not more than 99 years or  
19 less than 10 years, and a fine not to exceed \$100,000, if the amount  
20 of the controlled substance to which the offense applies is, by  
21 aggregate weight, including adulterants or dilutants, 200 grams or  
22 more but less than 400 grams.

23           (f) An offense under Subsection (a) is a felony of the first  
24 degree punishable by imprisonment in the Texas Department of  
25 Criminal Justice for life or for a term of not more than 99 years or  
26 less than 15 years, and a fine not to exceed \$250,000, if the amount  
27 of the controlled substance to which the offense applies is, by



1 aggregate weight, including adulterants or dilutants, 400 grams or  
2 more.

3 SECTION 5. Section 481.1121(b), Health and Safety Code, is  
4 amended to read as follows:

5 (b) An offense under this section is:

6 (1) a state jail felony if the number of abuse units of  
7 the controlled substance is fewer than 20;

8 (2) a felony of the second degree if the number of  
9 abuse units of the controlled substance is 20 or more but fewer than  
10 80;

11 (3) a felony of the first degree if the number of abuse  
12 units of the controlled substance is 80 or more but fewer than  
13 4,000; and

14 (4) a felony of the first degree punishable by  
15 imprisonment in the Texas Department of Criminal Justice for life  
16 or for a term of not more than 99 years or less than 15 years and a  
17 fine not to exceed \$250,000, if the number of abuse units of the  
18 controlled substance is 4,000 or more.

19 SECTION 6. Sections 481.1123(b), (d), (e), and (f), Health  
20 and Safety Code, are amended to read as follows:

21 (b) An offense under Subsection (a) is a [~~state jail~~] felony  
22 of the third degree if the amount of the controlled substance to  
23 which the offense applies is, by aggregate weight, including  
24 adulterants or dilutants, less than one gram.

25 (d) An offense under Subsection (a) is a felony of the first  
26 degree punishable by imprisonment in the Texas Department of  
27 Criminal Justice for life or for a term of not more than 99 years or

1 less than 10 years, and a fine not to exceed \$20,000, if the amount  
2 of the controlled substance to which the offense applies is, by  
3 aggregate weight, including adulterants or dilutants, four grams or  
4 more but less than 200 grams.

5 (e) An offense under Subsection (a) is a felony of the first  
6 degree punishable by imprisonment in the Texas Department of  
7 Criminal Justice for life or for a term of not more than 99 years or  
8 less than 15 years, and a fine not to exceed \$200,000, if the amount  
9 of the controlled substance to which the offense applies is, by  
10 aggregate weight, including adulterants or dilutants, 200 grams or  
11 more but less than 400 grams.

12 (f) An offense under Subsection (a) is a felony of the first  
13 degree punishable by imprisonment in the Texas Department of  
14 Criminal Justice for life or for a term of not more than 99 years or  
15 less than 20 years, and a fine not to exceed \$500,000, if the amount  
16 of the controlled substance to which the offense applies is, by  
17 aggregate weight, including adulterants or dilutants, 400 grams or  
18 more.

19 SECTION 7. Section 481.113(e), Health and Safety Code, is  
20 amended to read as follows:

21 (e) An offense under Subsection (a) is a felony of the first  
22 degree punishable by imprisonment in the Texas Department of  
23 Criminal Justice for life or for a term of not more than 99 years or  
24 less than 10 years, and a fine not to exceed \$100,000, if the amount  
25 of the controlled substance to which the offense applies is, by  
26 aggregate weight, including adulterants or dilutants, 400 grams or  
27 more.

1 SECTION 8. Section 481.114(e), Health and Safety Code, is  
2 amended to read as follows:

3 (e) An offense under Subsection (a) is a felony of the first  
4 degree punishable by imprisonment in the Texas Department of  
5 Criminal Justice for life or for a term of not more than 99 years or  
6 less than 10 years, and a fine not to exceed \$100,000, if the amount  
7 of the controlled substance to which the offense applies is, by  
8 aggregate weight, including any adulterants or dilutants, 400 grams  
9 or more.

10 SECTION 9. Section 481.115(f), Health and Safety Code, is  
11 amended to read as follows:

12 (f) An offense under Subsection (a) is a felony of the first  
13 degree punishable by imprisonment in the Texas Department of  
14 Criminal Justice for life or for a term of not more than 99 years or  
15 less than 10 years, and a fine not to exceed \$100,000, if the amount  
16 of the controlled substance possessed is, by aggregate weight,  
17 including adulterants or dilutants, 400 grams or more.

18 SECTION 10. Section 481.1151(b), Health and Safety Code, is  
19 amended to read as follows:

20 (b) An offense under this section is:

21 (1) a state jail felony if the number of abuse units of  
22 the controlled substance is fewer than 20;

23 (2) a felony of the third degree if the number of abuse  
24 units of the controlled substance is 20 or more but fewer than 80;

25 (3) a felony of the second degree if the number of  
26 abuse units of the controlled substance is 80 or more but fewer than  
27 4,000;

1           (4) a felony of the first degree if the number of abuse  
2 units of the controlled substance is 4,000 or more but fewer than  
3 8,000; and

4           (5) a felony of the first degree punishable by  
5 imprisonment in the Texas Department of Criminal Justice for life  
6 or for a term of not more than 99 years or less than 15 years and a  
7 fine not to exceed \$250,000, if the number of abuse units of the  
8 controlled substance is 8,000 or more.

9           SECTION 11. Section 481.116(e), Health and Safety Code, is  
10 amended to read as follows:

11           (e) An offense under Subsection (a) is a felony of the first  
12 degree punishable by imprisonment in the Texas Department of  
13 Criminal Justice for life or for a term of not more than 99 years or  
14 less than five years, and a fine not to exceed \$50,000, if the  
15 amount of the controlled substance possessed is, by aggregate  
16 weight, including adulterants or dilutants, 400 grams or more.

17           SECTION 12. Section 481.1161(b), Health and Safety Code, is  
18 amended to read as follows:

19           (b) An offense under this section is:

20           (1) a Class B misdemeanor if the amount of the  
21 controlled substance possessed is, by aggregate weight, including  
22 adulterants or dilutants, two ounces or less;

23           (2) a Class A misdemeanor if the amount of the  
24 controlled substance possessed is, by aggregate weight, including  
25 adulterants or dilutants, four ounces or less but more than two  
26 ounces;

27           (3) a state jail felony if the amount of the controlled

1 substance possessed is, by aggregate weight, including adulterants  
2 or dilutants, five pounds or less but more than four ounces;

3 (4) a felony of the third degree if the amount of the  
4 controlled substance possessed is, by aggregate weight, including  
5 adulterants or dilutants, 50 pounds or less but more than 5 pounds;

6 (5) a felony of the second degree if the amount of the  
7 controlled substance possessed is, by aggregate weight, including  
8 adulterants or dilutants, 2,000 pounds or less but more than 50  
9 pounds; and

10 (6) a felony of the first degree punishable by  
11 imprisonment in the Texas Department of Criminal Justice for life  
12 or for a term of not more than 99 years or less than 5 years, and a  
13 fine not to exceed \$50,000, if the amount of the controlled  
14 substance possessed is, by aggregate weight, including adulterants  
15 or dilutants, more than 2,000 pounds.

16 SECTION 13. Section 481.117(e), Health and Safety Code, is  
17 amended to read as follows:

18 (e) An offense under Subsection (a) is a felony of the first  
19 degree punishable by imprisonment in the Texas Department of  
20 Criminal Justice for life or for a term of not more than 99 years or  
21 less than five years, and a fine not to exceed \$50,000, if the  
22 amount of the controlled substance possessed is, by aggregate  
23 weight, including adulterants or dilutants, 400 grams or more.

24 SECTION 14. Section 481.118(e), Health and Safety Code, is  
25 amended to read as follows:

26 (e) An offense under Subsection (a) is a felony of the first  
27 degree punishable by imprisonment in the Texas Department of

1 Criminal Justice for life or for a term of not more than 99 years or  
2 less than five years, and a fine not to exceed \$50,000, if the  
3 amount of the controlled substance possessed is, by aggregate  
4 weight, including adulterants or dilutants, 400 grams or more.

5 SECTION 15. Section 481.120(b), Health and Safety Code, is  
6 amended to read as follows:

7 (b) An offense under Subsection (a) is:

8 (1) a Class B misdemeanor if the amount of marihuana  
9 delivered is one-fourth ounce or less and the person committing the  
10 offense does not receive remuneration for the marihuana;

11 (2) a Class A misdemeanor if the amount of marihuana  
12 delivered is one-fourth ounce or less and the person committing the  
13 offense receives remuneration for the marihuana;

14 (3) a state jail felony if the amount of marihuana  
15 delivered is five pounds or less but more than one-fourth ounce;

16 (4) a felony of the second degree if the amount of  
17 marihuana delivered is 50 pounds or less but more than five pounds;

18 (5) a felony of the first degree if the amount of  
19 marihuana delivered is 2,000 pounds or less but more than 50 pounds;

20 and

21 (6) a felony of the first degree punishable by  
22 imprisonment in the Texas Department of Criminal Justice for life  
23 or for a term of not more than 99 years or less than 10 years, and a  
24 fine not to exceed \$100,000, if the amount of marihuana delivered is  
25 more than 2,000 pounds.

26 SECTION 16. Section 481.121(b), Health and Safety Code, is  
27 amended to read as follows:

1 (b) An offense under Subsection (a) is:  
2 (1) a Class B misdemeanor if the amount of marihuana  
3 possessed is two ounces or less;  
4 (2) a Class A misdemeanor if the amount of marihuana  
5 possessed is four ounces or less but more than two ounces;  
6 (3) a state jail felony if the amount of marihuana  
7 possessed is five pounds or less but more than four ounces;  
8 (4) a felony of the third degree if the amount of  
9 marihuana possessed is 50 pounds or less but more than 5 pounds;  
10 (5) a felony of the second degree if the amount of  
11 marihuana possessed is 2,000 pounds or less but more than 50 pounds;  
12 and  
13 (6) a felony of the first degree punishable by  
14 imprisonment in the Texas Department of Criminal Justice for life  
15 or for a term of not more than 99 years or less than 5 years, and a  
16 fine not to exceed \$50,000, if the amount of marihuana possessed is  
17 more than 2,000 pounds.

18 SECTION 17. Section 481.126(a), Health and Safety Code, is  
19 amended to read as follows:

20 (a) A person commits an offense if the person:  
21 (1) barter property or expends funds the person knows  
22 are derived from the commission of a first degree felony [an]  
23 offense under this chapter punishable by imprisonment in the Texas  
24 Department of Criminal Justice for life;  
25 (2) barter property or expends funds the person knows  
26 are derived from the commission of an offense under Section  
27 481.121(a) that is punishable under Section 481.121(b)(5);

1           (3) barter property or finances or invests funds the  
2 person knows or believes are intended to further the commission of  
3 an offense for which the punishment is described by Subdivision  
4 (1); or

5           (4) barter property or finances or invests funds the  
6 person knows or believes are intended to further the commission of  
7 an offense under Section 481.121(a) that is punishable under  
8 Section 481.121(b)(5).

9           SECTION 18. Section 481.134(c), Health and Safety Code, as  
10 amended by Chapters 584 (S.B. 768) and 807 (H.B. 1540), Acts of the  
11 87th Legislature, Regular Session, 2021, is reenacted and amended  
12 to read as follows:

13           (c) The minimum term of confinement or imprisonment for an  
14 offense otherwise punishable under Section 481.112(c), (d), (e), or  
15 (f), 481.1121(b)(2), (3), or (4), 481.1123(b), (c) [~~481.1123(c)~~],  
16 (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),  
17 481.115(c)-(f), 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d),  
18 or (e), 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e),  
19 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or  
20 481.121(b)(4), (5), or (6) is increased by five years and the  
21 maximum fine for the offense is doubled if it is shown on the trial  
22 of the offense that the offense was committed:

23           (1) in, on, or within 1,000 feet of the premises of a  
24 school, the premises of a public or private youth center, or a  
25 playground;

26           (2) on a school bus; or

27           (3) by any unauthorized person 18 years of age or



1 older, in, on, or within 1,000 feet of premises owned, rented, or  
2 leased by a general residential operation operating as a  
3 residential treatment center.

4 SECTION 19. Section 481.141, Health and Safety Code, is  
5 amended by adding Subsection (d) to read as follows:

6 (d) Punishment may not be increased under this section if  
7 the defendant is also prosecuted under Section 19.02(b)(4), Penal  
8 Code, for conduct occurring during the same criminal episode.

9 SECTION 20. Section 19.02, Penal Code, is amended by  
10 amending Subsection (b) and adding Subsection (e) to read as  
11 follows:

12 (b) A person commits an offense if the person [~~he~~]:

13 (1) intentionally or knowingly causes the death of an  
14 individual;

15 (2) intends to cause serious bodily injury and commits  
16 an act clearly dangerous to human life that causes the death of an  
17 individual; [~~or~~]

18 (3) commits or attempts to commit a felony, other than  
19 manslaughter, and in the course of and in furtherance of the  
20 commission or attempt, or in immediate flight from the commission  
21 or attempt, the person [~~he~~] commits or attempts to commit an act  
22 clearly dangerous to human life that causes the death of an  
23 individual; or

24 (4) knowingly manufactures or delivers a controlled  
25 substance included in Penalty Group 1-B under Section 481.1022,  
26 Health and Safety Code, in violation of Section 481.1123, Health  
27 and Safety Code, and an individual dies as a result of injecting,

1 ingesting, inhaling, or introducing into the individual's body any  
2 amount of the controlled substance manufactured or delivered by the  
3 actor, regardless of whether the controlled substance was used by  
4 itself or with another substance, including a drug, adulterant, or  
5 dilutant.

6 (e) It is a defense to prosecution under Subsection (b)(4)  
7 that the actor's conduct in manufacturing or delivering the  
8 controlled substance was authorized under Chapter 481, Health and  
9 Safety Code, or other state or federal law.

10 SECTION 21. Section 71.02(a), Penal Code, is amended to  
11 read as follows:

12 (a) A person commits an offense if, with the intent to  
13 establish, maintain, or participate in a combination or in the  
14 profits of a combination or as a member of a criminal street gang,  
15 the person commits or conspires to commit one or more of the  
16 following:

17 (1) murder, capital murder, arson, aggravated  
18 robbery, robbery, burglary, theft, aggravated kidnapping,  
19 kidnapping, aggravated assault, aggravated sexual assault, sexual  
20 assault, continuous sexual abuse of young child or disabled  
21 individual, solicitation of a minor, forgery, deadly conduct,  
22 assault punishable as a Class A misdemeanor, burglary of a motor  
23 vehicle, or unauthorized use of a motor vehicle;

24 (2) any gambling offense punishable as a Class A  
25 misdemeanor;

26 (3) promotion of prostitution, aggravated promotion  
27 of prostitution, or compelling prostitution;

- 1           (4) unlawful manufacture, transportation, repair, or  
2 sale of firearms or prohibited weapons;
- 3           (5) unlawful manufacture, delivery, dispensation, or  
4 distribution of a controlled substance or dangerous drug, or  
5 unlawful possession of a controlled substance or dangerous drug  
6 through forgery, fraud, misrepresentation, or deception;
- 7           (5-a) causing the unlawful delivery, dispensation, or  
8 distribution of a controlled substance or dangerous drug in  
9 violation of Subtitle B, Title 3, Occupations Code;
- 10           (5-b) unlawful possession with intent to deliver a  
11 controlled substance listed in Penalty Group 1-B under Section  
12 481.1022, Health and Safety Code;
- 13           (6) any unlawful wholesale promotion or possession of  
14 any obscene material or obscene device with the intent to wholesale  
15 promote the same;
- 16           (7) any offense under Subchapter B, Chapter 43,  
17 depicting or involving conduct by or directed toward a child  
18 younger than 18 years of age;
- 19           (8) any felony offense under Chapter 32;
- 20           (9) any offense under Chapter 36;
- 21           (10) any offense under Chapter 34, 35, or 35A;
- 22           (11) any offense under Section 37.11(a);
- 23           (12) any offense under Chapter 20A;
- 24           (13) any offense under Section 37.10;
- 25           (14) any offense under Section 38.06, 38.07, 38.09, or  
26 38.11;
- 27           (15) any offense under Section 42.10;

- 1           (16) any offense under Section 46.06(a)(1) or 46.14;  
2           (17) any offense under Section 20.05 or 20.06;  
3           (18) any offense under Section 16.02; or  
4           (19) any offense classified as a felony under the Tax  
5 Code.

6           SECTION 22. The change in law made by this Act to Section  
7 193.005, Health and Safety Code, applies only to a death that occurs  
8 on or after the effective date of this Act, or a death that occurs  
9 before that date but is discovered on or after the effective date of  
10 this Act.

11          SECTION 23. The changes in law made by this Act to Chapter  
12 481, Health and Safety Code, and Sections 19.02 and 71.02, Penal  
13 Code, apply only to an offense committed on or after the effective  
14 date of this Act. An offense committed before the effective date of  
15 this Act is governed by the law in effect on the date the offense was  
16 committed, and the former law is continued in effect for that  
17 purpose. For purposes of this section, an offense was committed  
18 before the effective date of this Act if any element of the offense  
19 occurred before that date.

20          SECTION 24. To the extent of any conflict, this Act prevails  
21 over another Act of the 88th Legislature, Regular Session, 2023,  
22 relating to nonsubstantive additions to and corrections in enacted  
23 codes.

24          SECTION 25. This Act takes effect September 1, 2023.

**ADOPTED**  
V V  
**MAY 16 2023**

*Latey Law*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Joan Huffman*

1 Amend C.S.H.B. No. 6 (senate committee report) in SECTION 1  
2 of the bill, in added Section 193.005(e-1), Health and Safety Code  
3 (page 1, line 26), between "include" and "the term" by inserting  
4 "either the term "Fentanyl Poisoning" or".

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 17, 2023**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB6** by Goldman (Relating to the designation of fentanyl toxicity for purposes of the death certificate and to the criminal penalties for certain controlled substance offenses; increasing a criminal penalty.),  
**As Passed 2nd House**

Expanding the conduct constituting or increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement. The fiscal implications cannot be determined due to a lack of data to identify cases involving the specific Penalty Group 1 controlled substances which would be reclassified under the bill's provisions or to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

The bill would clarify penalty levels for certain felony controlled substance offenses as first degree felonies and clarify the applicability of the penalty enhancement for committing the offense while engaging in organized criminal activity. The bill would increase the penalty for manufacture or delivery of a Penalty Group 1-B controlled substance of less than one gram from a state jail felony to a third degree felony, and if the offense is committed in a drug-free zone, increase the minimum term of confinement by five years and double the maximum fine. The bill would add unlawful possession with intent to deliver a Penalty Group 1-B controlled substance to the list of offenses subject to the penalty enhancement for committing the offense while engaging in organized criminal activity. The bill would reclassify certain controlled substances from Penalty Group 1 into Penalty Group 1-B. The bill would expand the conduct constituting the offense of murder to include when an actor manufactures or delivers a Penalty Group 1-B controlled substance and an individual dies as a result of injecting, ingesting, inhaling, or introducing into the individual's body any amount of the controlled substance.

The fiscal impact and any impact on state correctional populations or on the demand for state correctional resources cannot be determined due to a lack of data to identify cases involving the specific Penalty Group 1 controlled substances which would be reclassified under the bill's provisions or to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

**Local Government Impact**

The fiscal impact to units of local government cannot be determined and would be dependent on the number of offenses committed and the subsequent penalties.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 537 State Health Services, Department of, 644 Juvenile Justice Department, 696 Department of Criminal Justice

**LBB Staff:** JMc, SD, DDel, DGI, LBO

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 11, 2023**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB6** by Goldman (Relating to the designation of fentanyl toxicity for purposes of the death certificate and to the criminal penalties for certain controlled substance offenses; increasing a criminal penalty.),  
**Committee Report 2nd House, Substituted**

Expanding the conduct constituting or increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement. The fiscal implications cannot be determined due to a lack of data to identify cases involving the specific Penalty Group 1 controlled substances which would be reclassified under the bill's provisions or to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

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**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 537 State Health Services, Department of, 644 Juvenile Justice Department, 696 Department of Criminal Justice

**LBB Staff:** JMc, DDel, DGI, LBO

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 12, 2023**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB6** by Goldman (Relating to the designation of poisoning with a controlled substance included in Penalty Group 1-B for purposes of the death certificate and to the criminal penalties for certain controlled substance offenses; creating criminal offenses; increasing a criminal penalty.), **As Engrossed**

Expanding the conduct constituting or increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement. The fiscal implications cannot be determined due to a lack of data to identify cases involving the specific Penalty Group 1 controlled substances which would be reclassified under the bill's provisions or to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

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**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 537 State Health Services, Department of, 644 Juvenile Justice Department, 696 Department of Criminal Justice

**LBB Staff:** JMc, DDel, LBO, CMA, DGI



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

April 20, 2023

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB6** by Goldman (Relating to the designation of poisoning with a controlled substance included in Penalty Group 1-B for purposes of the death certificate and to the criminal penalties for certain controlled substance offenses; creating criminal offenses; increasing a criminal penalty.), **Committee Report 1st House, Substituted**

Expanding the conduct constituting or increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement. The fiscal implications cannot be determined due to a lack of data to identify cases involving the specific Penalty Group 1 controlled substances which would be reclassified under the bill's provisions or to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

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The fiscal impact and any impact on state correctional populations or on the demand for state correctional resources cannot be determined due to a lack of data to identify cases involving the specific Penalty Group 1 controlled substances which would be reclassified under the bill's provisions or to estimate the prevalence of conduct outlined in the bill's provisions that would be subject to criminal penalties.

**Local Government Impact**

The fiscal impact to units of local government cannot be determined and would be dependent on the number of offenses committed and the subsequent penalties.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 537 State Health Services, Department of, 644 Juvenile Justice Department, 696 Department of Criminal Justice

**LBB Staff:** JMc, DDeI, LBO, DGI

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

March 27, 2023

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB6** by Goldman (Relating to the criminal penalties for certain controlled substance offenses; increasing a criminal penalty.), **As Introduced**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would clarify penalty levels for certain felony controlled substance offenses as first degree felonies and clarify the applicability of the penalty enhancement for committing the offense while engaging in organized criminal activity. The bill would increase the penalty for manufacture or delivery of a Penalty Group 1-B controlled substance of less than one gram from a state jail felony to a third degree felony, and if the offense is committed in a drug-free zone, increase the minimum term of confinement by five years and double the maximum fine. The bill would add unlawful possession with intent to deliver a Penalty Group 1-B controlled substance to the list of offenses subject to the penalty enhancement for committing the offense while engaging in organized criminal activity.

It is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Local Government Impact**

While increasing the penalty for an existing offense may result in increased demands upon local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement, it is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 644 Juvenile Justice Department, 696 Department of Criminal Justice

**LBB Staff:** JMc, DDel, LBO, DGI

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**  
**88TH LEGISLATIVE REGULAR SESSION**

**May 11, 2023**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB6** by Goldman (Relating to the designation of fentanyl toxicity for purposes of the death certificate and to the criminal penalties for certain controlled substance offenses; increasing a criminal penalty.),  
**Committee Report 2nd House, Substituted**

The bill would clarify penalty levels for certain felony controlled substance offenses as first degree felonies and clarify the applicability of the penalty enhancement for committing the offense while engaging in organized criminal activity. The bill would increase the penalty for manufacture or delivery of a Penalty Group 1-B controlled substance of less than one gram from a state jail felony to a third degree felony, and if the offense is committed in a drug-free zone, increase the minimum term of confinement by five years and double the maximum fine. The bill would add unlawful possession with intent to deliver a Penalty Group 1-B controlled substance to the list of offenses subject to the penalty enhancement for committing the offense while engaging in organized criminal activity. The bill would reclassify certain controlled substances from Penalty Group 1 into Penalty Group 1-B. The bill would expand the conduct constituting the offense of murder to include when an actor manufactures or delivers a Penalty Group 1-B controlled substance and an individual dies as a result of injecting, ingesting, inhaling, or introducing into the individual's body any amount of the controlled substance.

Expanding the conduct constituting or increasing the penalty for an existing offense may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

In fiscal year 2022, there were 2,545 individuals arrested, 135 individuals placed on adult community supervision, 35 individuals placed on juvenile supervision, and 112 individuals admitted into an adult state correctional institution for any of the offenses which, under the provisions of the bill, would be subject to increased penalties or could be subject to potential penalty enhancements. There were 13 individuals admitted into a juvenile state correctional facility for manufacture, delivery, or possession of a controlled substance or marihuana, but it is unknown if these offenses would meet the criteria for increased penalties under the bill's provisions.

In fiscal year 2022, there were 8,657 individuals arrested, 1,571 individuals placed on adult community supervision, 26 individuals placed on juvenile community supervision, and 2,592 individuals admitted into an adult state correctional institution for manufacture and delivery of a Penalty Group 1 or 1-B controlled substance. In fiscal year 2022, there was one individual admitted into a juvenile state correctional institution for manufacture or delivery of an unspecified controlled substance. It is unknown how many Penalty Group 1 cases would be reclassified as Penalty Group 1-B or if any of these cases resulted in the death of an individual as outlined in the bill's provisions.

The impact on state correctional populations or on the demand for state correctional resources cannot be determined due to a lack of data to identify cases involving the specific Penalty Group 1 controlled substances which would be reclassified under the bill's provisions or to estimate the prevalence of conduct outlined in the bill's provisions.

**Source**

**Agencies:**

**LBB Staff:** JMc, DDel, LBO, DGI

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**  
**88TH LEGISLATIVE REGULAR SESSION**

**May 12, 2023**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB6** by Goldman (Relating to the designation of poisoning with a controlled substance included in Penalty Group 1-B for purposes of the death certificate and to the criminal penalties for certain controlled substance offenses; creating criminal offenses; increasing a criminal penalty.), **As Engrossed**

The bill would clarify penalty levels for certain felony controlled substance offenses as first degree felonies and clarify the applicability of the penalty enhancement for committing the offense while engaging in organized criminal activity. The bill would increase the penalty for manufacture or delivery of a Penalty Group 1-B controlled substance of less than one gram from a state jail felony to a third degree felony, and if the offense is committed in a drug-free zone, increase the minimum term of confinement by five years and double the maximum fine. The bill would add unlawful possession with intent to deliver a Penalty Group 1-B controlled substance to the list of offenses subject to the penalty enhancement for committing the offense while engaging in organized criminal activity. The bill would reclassify certain controlled substances from Penalty Group 1 into Penalty Group 1-B. The bill would expand the conduct constituting the offenses of homicide, manslaughter, and criminally negligent homicide to include when an actor manufactures or delivers a Penalty Group 1-B controlled substance and an individual dies as a result of injecting, ingesting, inhaling, or introducing into the individual's body any amount of the controlled substance.

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The impact on state correctional populations or on the demand for state correctional resources cannot be determined due to a lack of data to identify cases involving the specific Penalty Group 1 controlled substances which would be reclassified under the bill's provisions or to estimate the prevalence of conduct outlined in the bill's provisions.

**Source**

**Agencies:**

**LBB Staff:** JMc, DDel, LBO, CMA, DGI

LEGISLATIVE BUDGET BOARD  
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

88TH LEGISLATIVE REGULAR SESSION

April 20, 2023

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB6** by Goldman (Relating to the designation of poisoning with a controlled substance included in Penalty Group 1-B for purposes of the death certificate and to the criminal penalties for certain controlled substance offenses; creating criminal offenses; increasing a criminal penalty.), **Committee Report 1st House, Substituted**

The bill would clarify penalty levels for certain felony controlled substance offenses as first degree felonies and clarify the applicability of the penalty enhancement for committing the offense while engaging in organized criminal activity. The bill would increase the penalty for manufacture or delivery of a Penalty Group 1-B controlled substance of less than one gram from a state jail felony to a third degree felony, and if the offense is committed in a drug-free zone, increase the minimum term of confinement by five years and double the maximum fine. The bill would add unlawful possession with intent to deliver a Penalty Group 1-B controlled substance to the list of offenses subject to the penalty enhancement for committing the offense while engaging in organized criminal activity. The bill would reclassify certain controlled substances from Penalty Group 1 into Penalty Group 1-B. The bill would expand the conduct constituting the offenses of homicide, manslaughter, and criminally negligent homicide to include when an actor manufactures or delivers a Penalty Group 1-B controlled substance and an individual dies as a result of injecting, ingesting, inhaling, or introducing into the individual's body any amount of the controlled substance.

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**Source**

**Agencies:**

**LBB Staff:** JMc, DDel, LBO, DGI



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**CRIMINAL JUSTICE IMPACT STATEMENT**

**88TH LEGISLATIVE REGULAR SESSION**

**March 27, 2023**

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB6** by Goldman (Relating to the criminal penalties for certain controlled substance offenses; increasing a criminal penalty.), **As Introduced**

The bill would clarify penalty levels for certain felony controlled substance offenses as first degree felonies and clarify the applicability of the penalty enhancement for committing the offense while engaging in organized criminal activity. The bill would increase the penalty for manufacture or delivery of a Penalty Group 1-B controlled substance of less than one gram from a state jail felony to a third degree felony, and if the offense is committed in a drug-free zone, increase the minimum term of confinement by five years and double the maximum fine. The bill would add unlawful possession with intent to deliver a Penalty Group 1-B controlled substance to the list of offenses subject to the penalty enhancement for committing the offense while engaging in organized criminal activity.

Expanding the conduct for a penalty enhancement and increasing the penalty for an existing offense may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

In fiscal year 2022, there were 2,545 individuals arrested, 135 individuals placed on adult community supervision, 35 individuals placed on juvenile supervision, and 112 individuals admitted into an adult state correctional institution for any of the offenses which, under the provisions of the bill, would be subject to increased penalties or could be subject to potential penalty enhancements. There were 13 individuals admitted into a juvenile state correctional facility for manufacture, delivery, or possession of a controlled substance or marihuana, but it is unknown if these offenses would meet the criteria for increased penalties under the bill's provisions.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Source**

**Agencies:**

**LBB Staff:** JMc, DDeI, LBO, DGI