Sixty-eighth Legislative Assembly of North Dakota

## SECOND ENGROSSMENT with House Amendments REENGROSSED SENATE BILL NO. 2248

Introduced by

Senators Hogue, Larson, Luick

Representatives Klemin, Louser

- 1 A BILL for an Act to create and enact a new section to chapter 19-03.1, and section
- 2 19-03.1-23.6 of the North Dakota Century Code, relating to a special penalty for death or injury
- 3 through distribution of illegal drugs, and fentanyl reporting; to amend and reenact section
- 4 19-03.1-23.4 of the North Dakota Century Code, relating to overdose prevention and immunity;
- 5 to provide a penalty; and to provide an appropriation.

## 6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 SECTION 1. AMENDMENT. Section 19-03.1-23.4 of the North Dakota Century Code is
8 amended and reenacted as follows:

## 9 **19-03.1-23.4.** Overdose prevention and immunity.

10 An individual is immune from criminal prosecution under sections 19-03.1-22.1,

11 19-03.1-22.3, and 19-03.1-22.5, subsection 7 of section 19-03.1-23, section 2 of this Act,

12 subsection 3 of section 19-03.2-03, and section 19-03.4-03 if in good faith that individual seeks

13 medical assistance for another individual in need of emergency medical assistance due to a

14 drug overdose. To receive immunity under this section, the individual receiving immunity must

15 have remained on the scene until assistance arrived, cooperated with the medical treatment of

16 the reported drug overdosed individual, and the overdosed individual must have been in a

17 condition a layperson would reasonably believe to be a drug overdose requiring immediate

18 medical assistance. Neither the individual who experiences a drug-related overdose and is in

- 19 need of emergency medical assistance nor the cooperating individual seeking medical
- 20 assistance may be charged or prosecuted for the criminal offenses listed in this section or for
- 21 the sharing of controlled substances among those present. Immunity from prosecution under
- this section does not apply unless the evidence for the charge or prosecution was obtained as a
- 23 result of the drug-related overdose and the need for emergency medical assistance. Good faith

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- 1 does not include seeking medical assistance during the course of the execution of an arrest
- 2 warrant or search warrant or during a lawful search.
- 3 SECTION 2. A new section to chapter 19-03.1 of the North Dakota Century Code is created
  4 and enacted as follows:
- 5 Distribution of illegal drugs - Special penalty for death or injury. 6 1. As used in this section: 7 "Consume" means to inject, ingest, or inhale a controlled substance. a. 8 "Controlled substance" includes derivatives or analogs to a scheduled controlled <u>b.</u> 9 substance. 10 "Injury" means an overdose that puts an individual's life at immediate risk. <u>C.</u> 11 "Supplies" includes delivering, supplying, directing, or willfully assisting another to d. 12 supply or deliver a controlled substance. 13 An individual is guilty of causing death or injury by distributing a controlled substance if <u>2.</u> 14 the individual willfully delivers a controlled substance, or supplies another to deliver or 15 consume a controlled substance, and an individual dies or is injured from overdosing
- 16 <u>after consuming a portion of that controlled substance.</u>
- 17 <u>a.</u> <u>A violation of this section is a class A felony.</u>
- <u>b.</u> This section does not limit a conviction under chapter 12.1-16, but an individual
   may not be found guilty of this section and an offense under chapter 12.1-16 if
   the conduct arises out of the same course of conduct.
- <u>3.</u> Venue for an offense under this section is in the county where the death or injury
   occurred or any county where the controlled substance was directly or
- 23 indirectly obtained by the deceased or injured individual.
- 24 a. <u>An individual may not be convicted in more than one county for the death or</u>
   25 injury of the same individual who overdosed on a controlled substance.
- 26b.Notwithstanding chapter 29-03, an individual outside the state may be27prosecuted within the state under this section.
- 28 c. <u>The charging document for a violation of this section must list an overt act in</u>
   29 <u>which the individual engaged to violate this section.</u>
- 30d.Injury or death by an overdose may be proven by direct or circumstantial31evidence.

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1	<u>4.</u>	<u>An</u>	individual may not be charged under this section if the individual supplied or
2	administered a controlled substance as part of a medical procedure or the individual		
3	was in a lawful position to dispense a medication prescription.		
4		<u>a.</u>	An individual may not be charged under this section if the individual complied
5			with section 19-3.1-23.4.
6		<u>b.</u>	It is not a defense to this section that the deceased or injured individual had other
7			controlled substances or alcohol in the individual's system which the defendant
8			did not supply at the time of an overdose.
9	SECTION 3. Section 19-03.1-23.6 of the North Dakota Century Code is created and		
10	enacted as follows:		
11	<u>19-03.1-23.6. Fentanyl reporting - Report to legislative management.</u>		
12	By November first of each year, the department of health and human services shall submit		
13	to the legislative management and the governor a written report summarizing the number of		
14	deaths that occurred in the state caused by or related to fentanyl consumption during the		
15	preceding calendar year.		
16	SECTION 4. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -		
17	FENTANYL AWARENESS EXPANSION. There is appropriated out of any moneys from the		
18	opioid settlement fund, not otherwise appropriated, the sum of \$1,500,000, or so much of the		
19	sum as may be necessary, to the department of health and human services for the purpose of		
20	providing and expanding statewide awareness of the fentanyl drug and overdose epidemic, for		
21	the biennium beginning July 1, 2023, and ending June 30, 2025.		