

Assembly Bill No. 33

CHAPTER 887

An act to add and repeal Section 11455 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 2023. Filed with Secretary
of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 33, Bains. Fentanyl Misuse and Overdose Prevention Task Force.

Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 schedules and places the greatest restrictions and penalties on the use of those substances placed in Schedule I. The act classifies the drug fentanyl in Schedule II. Existing law prohibits a person from possessing for sale or purchasing for purposes of sale, specified controlled substances, including fentanyl, and provides for imprisonment in a county jail for 2, 3, or 4 years for a violation of this provision.

This bill would, subject to an appropriation, establish the Fentanyl Misuse and Overdose Prevention Task Force to undertake various duties relating to fentanyl misuse, including, among others, collecting and organizing data on the nature and extent of fentanyl misuse in California and evaluating approaches to increase public awareness of fentanyl misuse. The bill would require the task force to be cochaired by the Attorney General and the State Public Health Officer, or their designees, and would specify the membership of the task force.

The bill would require the first meeting of the task force to take place no later than June 1, 2024, and would require the task force to meet at least once every 2 months. The bill would require the task force to submit an interim report to the Governor and the Legislature by July 1, 2025, and would require the task force to report its findings and recommendations to the Governor and the Legislature by December 1, 2025.

The bill would repeal these provisions on January 1, 2026.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 11455 is added to the Health and Safety Code, to read:

11455. (a) There is hereby established the Fentanyl Misuse and Overdose Prevention Task Force to do the following, to the extent feasible:

(1) Collect and organize data on the nature and extent of fentanyl misuse in California.

(2) Identify and assess sources and drivers of legal and illicit fentanyl and xylazine activity in California.

(3) Measure and evaluate the progress and effectiveness of the state's education, prevention, treatment, and enforcement efforts in preventing fentanyl misuse and death from the intentional use of fentanyl or the unintentional use of illicit substances containing fentanyl or xylazine, including the prosecution of persons engaged in the illegal manufacture, sale, and trafficking of fentanyl.

(4) Evaluate approaches to increase public awareness of fentanyl misuse.

(5) Analyze existing statutes for their adequacy in addressing fentanyl misuse and, if the analysis determines that those statutes are inadequate, recommend revisions to those statutes or the enactment of new statutes that specifically define and address fentanyl misuse.

(6) Consult with governmental and nongovernmental organizations in developing recommendations to strengthen state and local efforts to prevent fentanyl misuse and death from the intentional use of fentanyl or the unintentional use of illicit substances containing fentanyl or xylazine, protect and assist persons who misuse fentanyl or other illicit substances that may contain fentanyl or xylazine, develop policy recommendations on the implementation of evidence-based practices to reduce fentanyl overdoses, and prosecute individuals engaged in the illegal manufacture, sale, and trafficking of fentanyl.

(7) Review and recommend model treatment protocols for medication-assisted treatment (MAT) of fentanyl misuse, including, but not limited to, the prescription of buprenorphine and other medications.

(8) Recommend strategies to increase the ability and willingness of the medical community to treat fentanyl misuse, including identifying barriers to accessing medical care, biases within the medical community against people who misuse fentanyl or other illicit substances that may contain fentanyl, and legal, regulatory, and practical hurdles in the delivery of MAT, behavioral therapy, and other medical strategies critical in the treatment of fentanyl misuse, which may include, but are not limited to, overdose prevention centers, fentanyl testing strip distribution, and access to overdose reversal treatment.

(9) Assess gaps in federal, state, and local resources to address fentanyl misuse.

(10) Evaluate strategies to improve coordination and collaboration between social media platforms, public health entities, and law enforcement.

(b) The task force shall be cochaired by the Attorney General and the State Public Health Officer or their designees.

(c) The members of the task force shall serve at the pleasure of the respective appointing authority. The task force shall be comprised of the following representatives or their designees:

(1) The Attorney General as cochair.

(2) The State Public Health Officer as cochair.

- (3) The Director of Health Care Services.
- (4) The Director of Social Services.
- (5) One Member of the Senate, appointed by the Senate Rules Committee.
- (6) One Member of the Assembly, appointed by the Speaker of the Assembly.
- (7) The Chairperson of the Judicial Council.
- (8) One representative from the California District Attorneys Association.
- (9) One representative from the California Public Defenders Association.
- (10) One representative of a local educational agency, appointed by the Superintendent of Public Instruction.
- (11) One representative from the California Hospital Association.
- (12) One representative from the California Medical Association.
- (13) One representative from the County Health Executives Association of California.
- (14) One representative from the County Behavioral Health Directors Association of California.
- (15) One representative from a local health department, appointed by the Governor.
- (16) Three representatives of law enforcement, one selected by the California State Sheriffs' Association, one selected by the California Police Chiefs Association, and one selected by the Department of the California Highway Patrol.
- (17) One representative from the California Society of Addiction Medicine who is a mental health professional.
- (18) One representative who is in recovery from fentanyl or opioid misuse, appointed by the Governor.
- (19) One representative from a federally qualified health center, appointed by the Governor.
- (20) One representative from an organization that provides services to homeless individuals, one representative from an organization that provides services to individuals with substance use disorders, and one representative from an organization that serves persons who misuse fentanyl or other illicit substances that may contain fentanyl, appointed by the Governor.
- (21) One representative from an organization that provides services to youths relating to substance misuse.
- (d) Whenever possible, members of the task force shall have experience providing services to persons who misuse fentanyl or other illicit substances that may contain fentanyl or have knowledge of fentanyl misuse issues.
- (e) The task force shall meet at least once every two months. Subcommittees may be formed and meet as necessary. All meetings shall be open to the public. The first meeting of the task force shall be held no later than June 1, 2024.
- (f) (1) On or before December 1, 2025, the task force shall report its findings and recommendations to the Governor and the Legislature. At the request of any member, the report may include minority findings and recommendations.

(2) On or before July 1, 2025, the task force shall submit an interim report to the Governor and the Legislature.

(3) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(g) For purposes of this section, “fentanyl misuse” means the use of fentanyl or products containing fentanyl in a manner, or with a frequency, that negatively impacts one or more areas of physical, mental, or emotional health.

(h) This section shall be implemented only to the extent that an appropriation is made by the Legislature for the purpose of this section.

(i) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the task force addresses, at the earliest possible time, the rising number of Californians killed by fentanyl every day and the even more potent and lethal fentanyl derivatives that are making their way into the state at an accelerating rate, it is necessary for this act to take effect immediately.