

Senate Judiciary Committee

Brendan Bunnell 271-4063

SB 467-FN, relative to the penalty for certain fentanyl-related offenses and establishing a mandatory minimum sentence for the crime of distribution of a controlled drug with death resulting.

Hearing Date: February 3, 2026

Time Opened: 1:45 p.m.

Time Closed: 2:38 p.m.

Members of the Committee Present: Senators Gannon, Abbas, Carson, Altschiller and Reardon

Members of the Committee Absent: None

Bill Analysis: This bill:

I. Adds mandatory minimum sentences for certain fentanyl-related offenses.

II. Sets a mandatory minimum sentence for the crime of distribution of a controlled drug with death resulting.

Sponsors:

Sen. Gannon

Sen. Innis

Sen. Birdsell

Sen. Lang

Sen. Avarad

Sen. Pearl

Sen. Rochefort

Sen. Abbas

Rep. M. Pearson

Rep. Khan

Rep. Litchfield

Rep. L. Walsh

Rep. Kuttub

Who supports the bill: Senator Rochefort (SD-1), Rachel Potter (ACLU of NH), Bill Bright (NH State Police), Derek Cataldo (Manchester PD), Bill Wright (Belknap Country Sheriff's Office), and Stephen Pecora (Office of the Governor).

Who opposes the bill: 69 individuals signed in opposition of this bill. For a complete list of those who signed in opposition please email Brendan.Bunnell@gc.nh.gov.

Who is neutral on the bill: None.

Summary of testimony presented:

Senator Gannon (SD-23), introduced SB 467 and said the bill was a compromise version of earlier mandatory-minimum proposals.

- Explained it was not exactly what he originally wanted but was designed to gain broader support. The bill sets mandatory minimum sentences for fentanyl quantities, including three and a half years for 20 grams or more and seven years for 50 grams or more.
- Explained that there is a mechanism allowing reduced sentences if certain conditions are met, including no prior violent convictions, no leadership role in trafficking, cooperation with law enforcement, and agreement to treatment.
- Emphasized that the goal was to balance punishment and rehabilitation and to incentivize cooperation so police can reach higher-level dealers, especially networks operating near the Massachusetts border.
- Clarified that if a death results, the penalties are mandatory with no reduction.

Lieutenant Cataldo, of the Manchester Police Department testified in support on behalf of the New Hampshire Association of Chiefs of Police.

- Described how fentanyl distribution works, explaining that users usually buy small amounts from mid-level dealers, while larger networks profit heavily from bulk purchases. He gave examples of pricing, explaining that grams sell for about \$80 in Manchester, while kilos can be purchased in Massachusetts for around \$8,000, creating large profit margins.
- Said the aggregation language in the bill would allow investigators to combine multiple controlled buys over 90 days to reach higher weights and bring stronger charges, which he said would be a powerful enforcement tool.
- Described distribution networks in Massachusetts that package drugs in bulk and send runners into New Hampshire, and said making New Hampshire a harder market would discourage those operations.
- Emphasized that the bill includes a “safety valve” allowing lower-level participants who cooperate and meet other criteria to avoid mandatory sentences.
- Senator Abbas asked what amount a typical user purchases.
 - Lieutenant Cataldo answered that street-level purchases are usually between one gram and three and a half grams, depending on tolerance and method of use.
- Senator Abbas then asked whether the thresholds in the bill would mainly apply to dealers rather than users.

- o Lieutenant Cataldo replied that mostly they would, though some users pool money and buy larger amounts, which is why the reduction provisions exist.
- Senator Reardon asked about the role of police in determining whether a defendant qualifies for reduced sentencing and whether that resembles negotiations typically handled by prosecutors or judges.
 - o Lieutenant Cataldo explained that law enforcement would only provide input on whether a person gave “substantial assistance,” while courts ultimately decide sentencing and other criteria.
 - Senator Reardon followed up, asking whether police are effectively determining eligibility before the court evaluates the case.
 - o Lieutenant Cataldo explained that prior convictions, violence, and leadership roles are determined from evidence, while assistance is assessed by police but still subject to judicial review. He said courts ultimately decide whether the criteria are met.
- Senator Reardon then asked whether the law was mainly needed in cities or statewide.
 - o Lieutenant Cataldo replied that distribution networks operate across southern New Hampshire and into smaller towns, so the tool would be useful statewide.
- Senator Altschiller asked about the phrase “substantial assistance,” saying it seemed subjective and asking how defendants would know what qualifies and how the different requirements interact.
 - o Lieutenant Cataldo explained that an honest debrief and truthful information could qualify, depending on what the person actually knows, and said courts ultimately determine whether assistance is sufficient. He added that stricter requirements apply in death-resulting cases because of their severity.
- Senator Altschiller asked whether defendants would be informed that cooperation could affect sentencing and whether the bill would function as a deterrent if they were not aware.
 - o Lieutenant Cataldo replied that investigators would normally explain these incentives and said the deterrent effect works both by encouraging cooperation and discouraging dealers from operating in the state.
- Senator Abbas asked whether cooperation sometimes happens later in the legal process rather than at arrest.

- o Lie tenant Cataldo confirmed that defendants often cooperate after reviewing evidence with counsel and that such cooperation can still be considered substantial.

Major Bill Bright, of the New Hampshire State Police, testified in support, saying mandatory minimums would target dealers while still allowing reduced sentences for users who meet criteria.

- He emphasized that fentanyl affects rural as well as urban communities and said the bill would be another tool in broader enforcement efforts.
- Senator Abbas asked whether mandatory sentences help law enforcement obtain informants.
 - o Major Bright said yes, stating that cooperation from defendants often provides valuable intelligence and strengthens investigations.
- Senator Gannon asked whether mandatory minimums would deter low-level dealing.
 - o Major Bright said they would likely make people think more carefully and that the quantities in the bill generally indicate dealing rather than personal use.
- Senator Altschiller asked whether increasing penalties is truly a deterrent, noting that the existing five-gram law has not eliminated fentanyl sales.
 - o Major Bright responded that the higher thresholds were intended to distinguish dealers from users and better target distribution activity.
- Senator Altschiller then asked whether the bill would solve the fentanyl crisis.
 - o Major Bright said no single measure would solve the problem but called it an effective enforcement tool.

Jake Berry of New Futures testified in opposition. He argued that overdose deaths in New Hampshire have declined significantly, attributing the improvement to treatment, prevention, and recovery programs rather than harsher penalties.

- Warned that mandatory minimums could capture small-scale sellers supporting their own addiction, increase incarceration costs, and undermine drug courts and treatment access.
- Senator Gannon questioned Berry's claim that current policies caused overdose declines, suggesting other factors such as economic conditions or national trends could explain the change.

- o Berry replied that New Hampshire's decline has been faster than many states and that expanded treatment and harm-reduction programs likely contributed.
- Senator Altschiller asked whether addressing addiction requires more than law enforcement.
 - o Berry agreed, describing substance-use treatment as a continuum including prevention, treatment, recovery, and harm reduction, and said mandatory minimums could disrupt that balance.
- Senator Abbas asked how the bill would affect recovery if it applies to selling rather than possession.
 - o Berry replied that the line between users and sellers is often blurred, since many people sell to support their own addiction, and said incarceration does not address the underlying disorder.
 - Senator Abbas followed up, asking why someone selling large quantities should not face mandatory penalties.
 - o Berry responded that addiction drives behavior and that focusing resources on treatment rather than punishment better addresses root causes.

Rachel Potter of the ACLU of New Hampshire testified in opposition, arguing that mandatory minimums do not deter crime, shift power from judges to prosecutors, distort plea bargaining, and interfere with rehabilitation.

- Said incarceration is expensive and may increase prison populations without improving outcomes.
- Argued that weight-based thresholds often capture low-level participants rather than high-level traffickers.
- Senator Abbas asked how to address organized distribution networks coming from out of state if not through measures like this bill.
 - o Potter responded that sentencing discretion should remain with judges and said the bill does not effectively address the broader trafficking problem.

Anena Hansen testified in opposition, sharing a personal story about her partner, who was given a second chance instead of a mandatory sentence and later contributed significantly to recovery programs in New Hampshire before eventually relapsing and dying. She argued that mandatory minimums remove the possibility of rehabilitation and second chances that can benefit communities.

Jessica Carter of Revive Recovery Resource Center testified in opposition, arguing that mandatory minimums would increase overdose deaths by driving people to use alone and avoid calling for help.

- Said aggregation provisions could turn repeated small purchases into trafficking charges and that treatment requirements in the bill may be unrealistic for people facing homelessness or severe addiction.
- Argued the bill would increase fear, reduce engagement with services, and push people further from recovery.

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Date Hearing Report completed: February 6, 2026