

1 Committee of Conference Report on SB 14-FN, relative to the penalty for certain fentanyl-related
2 offenses.

3

4 Recommendation:

5 That the Senate recede from its position of nonconcurrency with the House amendment, and
6 concur with the House amendment, and

7 That the Senate and House adopt the following new amendment to the bill as amended by the
8 House, and pass the bill as so amended:

9

10 Amend the bill by replacing all after the enacting clause with the following:

11

12 1 Controlled Drug Act; Penalties. Amend RSA 318-B:26, I(a) to read as follows:

13 (a) In the case of a violation involving any of the following, a person shall be sentenced
14 to a maximum term of imprisonment of not more than 30 years, a fine of not more than \$500,000, or
15 both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-
16 B:27, such person may be sentenced to a maximum term of life imprisonment, a fine of not more
17 than \$500,000, or both:

18 (1) Five ounces or more of a mixture or substance containing any of the following,
19 including any adulterants or dilutants:

20 (A) Coca leaves, except coca leaves and extracts of coca leaves from which
21 cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; or

22 (B) Cocaine other than crack cocaine, its salts, optical and geometric isomers,
23 and salts of isomers; or

24 (C) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

25 (2) Lysergic acid diethylamide, or its analog, in a quantity of 100 milligrams or more
26 including any adulterants or dilutants, or phencyclidine (PCP), or its analog, in a quantity of 10
27 grams or more including any adulterants or dilutants.

28 (3) Heroin or its analog, crack cocaine, or a fentanyl class drug in a quantity of 5
29 grams or more, including any adulterants or dilutants.

30 (A) ***A fentanyl class drug in a quantity of 20 grams or more, including***
31 ***any adulterants or dilutants, shall carry a minimum term of imprisonment of not less than***
32 ***3 years and 6 months incarceration. A fentanyl class drug in a quantity of 50 grams or***
33 ***more, including any adulterants or dilutants, shall carry a minimum term of***
34 ***imprisonment of not less than 7 years incarceration. If a defendant charged under this***

1 *subparagraph cooperates with a law enforcement investigation which results in an arrest*
2 *or conviction, the defendant shall not be subject to the minimum term of imprisonment*
3 *outlined in this subparagraph. The court may not defer, combine, or run concurrently with*
4 *any other sentence the mandatory minimum unless:*

5 (i) *The offender was less than 18 years of age at the time of the*
6 *commission of the offense for which the offender is to be sentenced;*

7 (ii) *The offender's mental capacity, at the time of the commission of*
8 *the offense for which the offender is to be sentenced, was significantly impaired to the*
9 *extent that the defendant was deemed incompetent. However, a voluntarily induced*
10 *intoxicated or drugged condition may not be considered an impairment for the purposes of*
11 *this subparagraph; or*

12 (iii) *The offender was an accomplice, the conduct constituting the*
13 *offense was principally the conduct of another, and the offender's participation was*
14 *relatively minor.*

15 (4) Methamphetamine or its analog, in a quantity of 5 ounces or more, including
16 adulterants or dilutants.

17 2 Controlled Drug Act; Penalties. Amend RSA 318-B:26, IX to read as follows:

18 IX. Any person who manufactures, sells, or dispenses methamphetamine, lysergic acid[₇]
19 diethylamide (**LSD**), phencyclidine (PCP) or any other controlled drug classified in schedules I or II,
20 or any controlled drug analog thereof, in violation of RSA 318-B:2, I or I-a, **excluding any fentanyl**
21 **class drug, including any adulterants or dilutants**, is strictly liable for a death which results
22 from the injection, inhalation, or ingestion of that substance, and may be sentenced to imprisonment
23 for life or for such term as the court may order. **Any person who manufactures, sells, or**
24 **dispenses a fentanyl class drug, including any adulterants or dilutants, in violation of**
25 **RSA 318-B:2, I or I-a, is strictly liable for a death which results from the injection,**
26 **inhalation, or ingestion of that substance, and may be sentenced to imprisonment for life**
27 **or for such term as the court may order, except that such term shall not be less than 5 years**
28 **of imprisonment.** For purposes of this section, the person's act of manufacturing, dispensing, or
29 selling a substance is the cause of a death when:

30 (a) The injection, inhalation or ingestion of the substance is an antecedent but for which
31 the death would not have occurred; and

32 (b) The death was not:

33 (1) Too remote in its occurrence as to have just bearing on the person's liability; or

34 (2) Too dependent upon conduct of another person which was unrelated to the
35 injection, inhalation or ingestion of the substance or its effect, as to have a just bearing on the
36 person's liability. It shall not be a defense to a prosecution under this section that the decedent
37 contributed to his own death by his purposeful, knowing, reckless or negligent injection, inhalation

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1 or ingestion of the substance or by his consenting to the administration of the substance by another.
2 Nothing in this section shall be construed to preclude or limit any prosecution for homicide. A
3 conviction arising under this section shall not merge with a conviction of one as a drug enterprise
4 leader or for any other offense defined in this chapter.

5 3 New Section; Personal Possession of Psilocybin. Amend RSA 318-B by inserting after section
6 2-e the following new section:

7 318-B:2-f Personal Possession of Psilocybin.

8 I. Notwithstanding RSA 318-B:2 and 318-B:26, a person 18 years of age or older who
9 obtains, purchases, transports, possesses, or uses 3/4 of an ounce or less of psilocybin shall be subject
10 to the following penalties:

11 (a) For a first offense, a misdemeanor.

12 (b) For a second or subsequent offense, the person shall be subject to the penalties in
13 RSA 318-B:26.

14 II. Any person under 18 years of age who obtains, purchases, transports, possesses, or uses
15 psilocybin shall be subject to the penalties in RSA 318-B:26.

16 4 Effective Date. This act shall take effect January 1, 2026.

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The signatures below attest to the authenticity of this Report on SB 14-FN, relative to the penalty for certain fentanyl-related offenses.

Conferees on the Part of the Senate

Conferees on the Part of the House

Sen. Abbas, Dist. 22

Rep. Roy, Rock. 31

Sen. Birdsell, Dist. 19

Rep. Rhodes, Ches. 17

Sen. Reardon, Dist. 15

Rep. Verville, Rock. 2

Rep. S. Smith, Sull. 3

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2025-2850-CofC

AMENDED 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.
- III. Modifies the penalties for a person 18 years of age or older to obtain, purchase, transport, possess, or use a certain quantity of psilocybin.