

October 5, 2023

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Initiative Coordinator
Office of the Attorney General
State of California
1300 I Street, 17th Floor
Sacramento, CA 95814

Oct 09 2023

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Initiative No. 23-0023 – Amendment #1

Dear Initiative Coordinator:

Pursuant to subdivision (b) of Section 9002 of the Elections Code, enclosed please find Amendment #1 to Initiative No. 23-0023. The amendments are reasonably germane to the theme, purpose or subject of the initiative measure as originally proposed.

I am the proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure based on the amended language.

For purposes of inquiries from the public and the media, please direct them as follows:

Richard Temple
2121 Natomas Crossing Drive, Suite 200-313
rtemple.mcnallytemple@gmail.com
(916) 447-8186

Thank you for your time and attention processing my request.

Sincerely,



Matthew Capelouto
Proponent

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS

SECTION 1. FINDINGS AND PURPOSES

- A. The purpose of this Measure is to prevent fentanyl deaths.
- B. Protecting every person in our state, especially our vulnerable youth, is of the utmost importance.
- C. The fentanyl crisis is affecting individuals across all economic brackets, races, and genders. The epidemic also targets teens and adults who seek out prescription medications such as Percocet, Xanax, Norco, Valium, Adderall, and others.
- D. Drug dealers often mass-produce fake or counterfeit pills in an attempt to falsely market them as legitimate prescription pills.
- E. Drug dealers add fentanyl to other drugs because it is a potent synthetic opioid that can increase the potency of other drugs, therefore increasing their effects and sales and multiply their profits.
- F. The consequences of illicit fentanyl poisonings and overdoses are severe and often fatal; fentanyl is 50 times stronger than heroin and 100 times stronger than morphine.
- G. Fentanyl poisoning/overdose is now the leading cause of death among 18 to 45-year-olds in the United States — surpassing even cancer, car accidents, suicides, and the devastating impact of COVID.
- H. Because fentanyl can kill instantly, those involved in its illicit production, movement, and sales must be issued a warning of its dangers, and subsequent punishments under the law, and should a death from sales occur, a just and specific prison sentence must follow.

SECTION 2. STATUTORY AMENDMENTS

[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]

- A. Section 11369 is added to Health and Safety Code, to read:

11369. (a) This section shall be known, and may be cited, as Alexandra’s Law.

(b) The court shall advise a person who is convicted of, or who pleads guilty or no contest to, a violation of Section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, or 11379.6 involving a hard drug, of the following:

“You are hereby advised that it is extremely dangerous and deadly to human life to illicitly manufacture, distribute, sell, furnish, administer, or give away any drugs in any form, including real or counterfeit drugs or pills. You can kill someone by engaging in such conduct. All drugs and counterfeit pills are dangerous to human life. These substances alone, or mixed, kill human beings in very small doses. If you illicitly manufacture, distribute, sell, furnish administer, or give away any real or counterfeit drugs or pills, and that conduct results in the death of a human being, you could be charged with homicide, up to and including the crime of murder, within the meaning of Section 187 of the Penal Code.”

(c) The advisory statement shall be provided to the defendant in writing, either on a plea form if used, as an addendum to a plea form, or at sentencing, and the fact that the advisory was given shall be specified on the record and recorded in the abstract of the conviction.

(d) (1) Except as provided in paragraph (2), as used in this section, “hard drug” means a substance

listed in Sections 11054 or 11055, including a substance containing fentanyl, heroin, cocaine, cocaine base, methamphetamine, or phencyclidine, and the analogs of any of these substances as defined in Sections 11400 and 11401.

(2) As used in this section “hard drug” does not include cannabis, cannabis products, peyote, lysergic acid diethylamide (LSD) or other psychedelic drugs such as mescaline and psilocybin (mushrooms), or any other substance listed in subdivisions (d) and (e) of Section 11054, or, with the exception of methamphetamine, any other substance listed in subdivision (d) of Section 11055.

B. Section 11352 of the Health and Safety Code is amended to read:

11352 (a). Except as otherwise provided in this division, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport (1) any controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, four, or five years.

(b) Notwithstanding the penalty provisions of subdivision (a), any person who transports any controlled substances specified in subdivision (a) within this state from one county to another noncontiguous county shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, six, or nine years.

(c) For purposes of this section, “transports” means to transport for sale.

(d) This section does not preclude or limit the prosecution of an individual for aiding and abetting the commission of, or conspiring to commit, or acting as an accessory to, any act prohibited by this section.

(e) Notwithstanding subdivision (a), a person who sells fentanyl, or any controlled substance listed in subdivision (c) of Section 11055, and thereby causes the death of a person who uses the drug, shall be punished by imprisonment in the state prison for 10, 11, or 12 years. Nothing in this section shall be construed as affecting the applicability of subdivision (a) of Section 187 or Section 189 of the Penal Code.

C. Section 1192.7 of the Penal Code is amended to read:

(a) (1) It is the intent of the Legislature that district attorneys prosecute violent sex crimes under statutes that provide sentencing under a “one strike,” “three strikes” or habitual sex offender statute instead of engaging in plea bargaining over those offenses.

(2) Plea bargaining in any case in which the indictment or information charges any serious felony, any felony in which it is alleged that a firearm was personally used by the defendant, or any offense of driving while under the influence of alcohol, drugs, narcotics, or any other intoxicating substance, or any combination thereof, is prohibited, unless there is insufficient evidence to prove the people’s case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence.

(3) If the indictment or information charges the defendant with a violent sex crime, as listed in subdivision (c) of Section 667.61, that could be prosecuted under Sections 269, 288.7, subdivisions (b) through (i) of Section 667, Section 667.61, or 667.71, plea bargaining is prohibited unless there

is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence. At the time of presenting the agreement to the court, the district attorney shall state on the record why a sentence under one of those sections was not sought.

(b) As used in this section "plea bargaining" means any bargaining, negotiation, or discussion between a criminal defendant, or his or her counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.

(c) As used in this section, "serious felony" means any of the following:

- (1) Murder or voluntary manslaughter;
- (2) mayhem;
- (3) rape;
- (4) sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person;
- (5) oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person;
- (6) lewd or lascivious act on a child under 14 years of age;
- (7) any felony punishable by death or imprisonment in the state prison for life;
- (8) any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm;
- (9) attempted murder;
- (10) assault with intent to commit rape or robbery;
- (11) assault with a deadly weapon or instrument on a peace officer;
- (12) assault by a life prisoner on a noninmate;
- (13) assault with a deadly weapon by an inmate;
- (14) arson;
- (15) exploding a destructive device or any explosive with intent to injure;
- (16) exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem;
- (17) exploding a destructive device or any explosive with intent to murder;
- (18) any burglary of the first degree;
- (19) robbery or bank robbery;
- (20) kidnapping;
- (21) holding of a hostage by a person confined in a state prison;
- (22) attempt to commit a felony punishable by death or imprisonment in the state prison for life;
- (23) any felony in which the defendant personally used a dangerous or deadly weapon;
- (24) selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code;
- (25) any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person;
- (26) grand theft involving a firearm;
- (27) carjacking;
- (28) any felony offense, which would also constitute a felony violation of Section 186.22;
- (29) assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220;
- (30) throwing acid or flammable substances, in violation of Section 244;
- (31) assault with a deadly weapon, firearm, machinegun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245;
- (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Section 245.2, 245.3, or 245.5;
- (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246;
- (34) commission of rape or sexual penetration in concert with another person, in violation of Section 264.1;
- (35) continuous sexual abuse of a child, in violation of Section 288.5;
- (36) shooting from a vehicle, in violation of subdivision (c) or (d) of Section 26100;
- (37) intimidation of victims or witnesses, in violation of Section 136.1;
- (38) criminal threats, in violation of Section 422;
- (39) any attempt to commit a crime listed in this subdivision other than an assault;
- (40) any violation of

Section 12022.53; (41) a violation of subdivision (b) or (c) of Section 11418; and (42) any conspiracy to commit an offense described in this subdivision; and (43) selling fentanyl, or any controlled substance listed in subdivision (c) of Section 11055, thereby causing the death of a person who uses the drug, in violation of subdivision (e) of Section 11352 of the Health and Safety Code.

(d) As used in this section, "bank robbery" means to take or attempt to take, by force or violence, or by intimidation from the person or presence of another any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association.

As used in this subdivision, the following terms have the following meanings:

(1) "Bank" means any member of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, and any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

(2) "Savings and loan association" means any federal savings and loan association and any "insured institution" as defined in Section 401 of the National Housing Act, as amended, and any federal credit union as defined in Section 2 of the Federal Credit Union Act.

(3) "Credit union" means any federal credit union and any state-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union administration.

(e) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

SECTION 3. IMPLEMENTING PROVISIONS

A. AMENDMENTS. The Legislature may amend this Measure by a majority vote of each house of the Legislature only if those amendments are consistent with and further the purpose of this Measure.

B. SEVERABILITY. If any provision of this Act, or any part of any provision, or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remaining provisions and applications which can be given effect without the invalid or unconstitutional provision or application shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

C. CONFLICTING MEASURES. In the event that this Measure and another measure addressing the sale of fentanyl shall appear on the same statewide ballot, the provisions of the other measure or measures addressing the sale of fentanyl shall be deemed to be in conflict with this Measure. In the event that this Measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this Measure shall prevail in their entirety, and the provisions of the other measure or measures addressing the sale of fentanyl shall be null and void. The provisions of the other measure or measures not addressing the sale of fentanyl may be given effect. If this Measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting measure is later held invalid, this Measure shall be self-executing and given full force and effect.