

HOUSE BILL 23-1167: Official City Position

Approved by Westminster City Council on February XX, 2023

REPRESENTATIVES deGRUY KENNEDY:

Concerning persons who report emergency overdose events in good faith.

Official City Position: AMEND

Status: **Active** – This bill was introduced in the House on January 23, 2023. It was assigned to the Judiciary Committee for hearing on February 21, 2023. It passed that committee and was referred to the Committee of the Whole.

Description:

The bill extends Good Samaritan immunity to persons reporting overdose events related to synthetic opiates. It also creates an affirmative defense for drug overdose reporting in distribution cases where the amount is 4 grams or less. The bill will impact state and local revenue and workload on an ongoing basis.

City Comments:

This legislation, *if amended*, is in alignment with the following principle(s) as set forth in the City's 2023 Legislative Policy Statement:

Public Safety

- The City of Westminster recognizes the critical importance of maintaining public order, providing a safe environment, and protecting the lives and property of the citizens of Westminster
- If amended as set forth below, this legislation would align with:
 - opposes legislation that minimizes the accountability of possession of illicit drugs such as fentanyl and opioids

This legislation would potentially save lives of those who overdose because the person who is with them would feel comfortable calling the police and having immunity from prosecution as opposed to letting the person who overdosed go without necessary medical treatment.

This bill also corrects a drafting error from last year's HB 22-1326 as it failed to cross-reference the Good Samaritan statute.

Proposed Amendment:

Current law allows for immunity from prosecution for the possession of any amount of a controlled substance if the Good Samaritan reports an overdose event and if the person remains on scene and cooperates with law enforcement.

This bill extends the immunity from prosecution to possession of up to 4 grams of fentanyl or carfentanil and to any material, compound, mixture, or preparation that contains a quantity of fentanyl or carfentanil that is more than sixty percent of the material,

compound, mixture, or preparation. Because of the danger from only a small amount of fentanyl or carfentanil, this language should be amended to only allow for immunity for possession of up to 1 gram of fentanyl or carfentanil.

Additionally, this bill creates an affirmative defense to prosecution for the distribution of not more than 4 grams of a controlled substance to include fentanyl, carfentanil, methamphetamine, heroin, and ketamine. 4 grams of any of these substances is a large amount and would likely only be carried by drug dealers. Because of the danger of only a small amount of these drugs, this should be amended to not more than 1 gram.

If amended, this bill will still hold those with a high amount of a schedule I or II controlled substance (likely dealers) accountable as they would not be immune from prosecution.