



## **The Katal Center for Health, Equity, and Justice OPPOSES [HB 5524 - Increasing the Penalty for the Sale of Fentanyl](#)**

**Connecticut has made progress toward ending the war on drugs; we should not turn back now.**

Connecticut has a lengthy history of progressive legislation related to addiction, particularly in relation to the overdose crisis. While other states in the United States were expanding on mandatory minimums and hyper enforcement, Connecticut has worked to make syringes and naloxone accessible, increase access to drug treatment, and expand public health strategies including pre-arrest diversion and harm reduction across the state. HB 5524 represents a digression, reinforcing the criminalization of addiction despite there being no evidence that such legislation deters either the sale of a controlled substance or overdoses. Furthermore, said criminalization is a well-known, failed drug war approach – we must end the drug war and mass incarceration in our state and advance health-based solutions that are rooted in racial equity.

**Expanding criminalization expands the drug war, which will harm communities in Connecticut, especially communities of color.**

The consequences of this legislation will disproportionately impact Black and Brown communities, hitting cities like Hartford, New Haven, and Bridgeport particularly hard but also Urban Centers like New Britain, Waterbury, and Willimantic. Reminiscent of the inequity between enforcement of mandatory minimum penalties for crack and powder cocaine for more than 40 years, this legislation, House Bill 5524, will reinforce the same systemic racism we are fighting in the criminal justice reform movement. This statute will be used to prosecute and force plea bargains from people of color, poor people, mentally ill people, and those with criminal convictions<sup>1</sup> in urban cities and rural towns across the state. The overdose crisis will no longer be concentrated in “small towns and suburbs”<sup>2</sup> with this new law and we will return to accelerated enforcement of drug laws that Connecticut residents have fought to change and remove. HB 5524 will facilitate a wave of demonization and criminalization of Black and Brown communities and poor people who use drugs in rural towns and cities.

---

<sup>1</sup> <https://www.cga.ct.gov/2019/JUDdata/Tmy/2019HB-07395-R000403-Awan,%20Asadullah,%20MD,%20MPH-TMY.PDF>

<sup>2</sup> <https://ctmirror.org/2019/04/04/blacks-dying-from-fentanyl-at-same-rate-as-whites-for-first-time/>

**Increasing penalties for use or sale of heroin or fentanyl will not solve the overdose problem; in fact, it is likely to make it worse.**

Over 1,000 people in Connecticut died last year of accidental drug overdoses, 760 of which involved fentanyl.<sup>3</sup> While the presence of illicit fentanyl in the drug supply creates an increased risk of overdose, the interventions proven most effective are health-based, not enforcement-based. There is broad recognition that Connecticut cannot arrest its way out of the overdose crisis. Doubling down on failed criminal justice interventions will only exacerbate the devastation because we know that, historically, increased penalties have done nothing to deter the use of heroin and fentanyl. Increasing penalties replicates failed drug war strategies which have done nothing in 40 years to curb the use of drugs and have instead resulted in the mass incarceration of millions of people, disproportionately affecting communities of color, formerly incarcerated people, young people and members of the LGBTIQI and non-gender conforming communities.

**There is no existing evidence that indicates that criminalizing the sale of a controlled substance will achieve the goal of reducing overdose fatalities.**

In recent years, a variety of legislatures adopted sentencing enhancement for fentanyl, which has not reduced the prevalence of fentanyl in the heroin supply. Fentanyl is present in most of the powder-based heroin in North America. Ill-conceived penalties and enhancements will in no way affect this supply chain.

Substantial evidence demonstrates criminal penalties do not have any effect on reducing either the supply of drugs or the demand for them. Instead, criminalization undermines avenues to reducing harms associated with drug use. Studies on tough on crime policies demonstrate that incarceration does not decrease the demand for drugs. One study found that states that increase their incarceration rates do not experience a decrease in drug use.<sup>4</sup> When a person who sells drugs is incarcerated, the supply of drugs is not reduced nor is the drug market impacted. Because the drug market is driven by demand rather than supply, an incarcerated seller will simply be replaced by another individual to fill the market demand.

Additionally, research from Rhode Island Hospital, Brown University, and a Canadian study all show that most users do not appear to be seeking fentanyl and are also not aware that their illicit drugs may contain fentanyl.<sup>5</sup> In one study of drug users who tested positive for fentanyl, 73% of them did not report knowingly using fentanyl.<sup>6</sup> In another report from the U.S. Sentencing Commission, 53% of those charged with fentanyl-related offenses did not know they were in possession of fentanyl.<sup>7</sup>

**We need real health-based solutions, not failed criminalization.**

We know based on available research that we can address the overdose crisis and reduce drug-related harm through increasing access to medications like methadone and buprenorphine;

---

<sup>3</sup> <https://www.ctpost.com/local/article/Fatal-fentanyl-overdoses-up-12-in-CT-13655354.php>

<sup>4</sup> <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/03/more-imprisonment-does-not-reduce-state-drug-problems>

<sup>5</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5560423/>

<sup>6</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6131768/>

<sup>7</sup> [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/data-briefings/2018\\_synthetic-drugs.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/data-briefings/2018_synthetic-drugs.pdf)

providing housing-first options for people experiencing homelessness; expanding harm reduction resources like syringe exchange, overdose prevention, fentanyl test trips, and safer consumption sites; and advancing sensible criminal justice reforms like decriminalization. Criminalization has failed to deliver safety to our communities. The costs associated with further criminalization take resources away from increasing access to evidence-based health and harm reduction services. The Legislature should reject HB5524, and instead focus on enhancing resources for prevention, education, and proven treatment options. We must shift away from punitive, reactionary policies that hurt families and the larger communities people live, work, and worship within.

**Contact:**

Keith Brown, MPH  
Director of Health and Harm Reduction  
Katal Center for Health, Equity, and Justice  
(518)527-6263  
keith@katalcenter.org