

SENATE COMMITTEE OF REFERENCE REPORT

March 6, 2023

Chair of Committee

Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB23-109 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 2, strike lines 2 and 3 and substitute:
2 "SECTION 1. In Colorado Revised Statutes, 18-18-405, amend
3 (2)(a)(III) as follows:".

4 Page 2, strike lines 11 through 17 and substitute:
5 "(III) (A) Except as provided in section 18-1-711 (3)(i), the
6 defendant committed a violation of ~~subsection (2)(a)(I)(D), (2)(b)(I)(D),~~
7 ~~or (2)(c)(V) SUBSECTION (2)(a)(I), (2)(b)(I), OR (2)(c) of this section, and~~
8 the actions in violation of ~~subsection (2)(a)(I)(D), (2)(b)(I)(D), or~~
9 ~~(2)(c)(V) SUBSECTION (2)(a)(I), (2)(b)(I), OR (2)(c) of this section are the~~
10 proximate cause of the death of another person who used or consumed the
11 material, compound, mixture, or preparation that contained ~~fentanyl,~~
12 ~~carfentanil, benzimidazole opiate, or an analog thereof as described in~~
13 ~~section 18-18-204 (2)(g) ANY AMOUNT OF A SCHEDULE I OR SCHEDULE II~~
14 CONTROLLED SUBSTANCE.

15 (B) Notwithstanding subsection (2)(a)(III)(A) of this section, a
16 defendant who committed a violation of ~~subsection (2)(c)(V) SUBSECTION~~
17 ~~(2)(c) of this section, and the actions in violation of subsection (2)(c)(V)~~
18 ~~SUBSECTION (2)(c) of this section are the proximate cause of the death of~~
19 another person who used or consumed the material, compound, mixture,
20 or preparation that contained ~~fentanyl, carfentanil, benzimidazole opiate,~~
21 ~~or an analog thereof as described in section 18-18-204 (2)(g) ANY~~
22 AMOUNT OF A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE, is
23 not subject to the mandatory sentencing requirement as described in
24 section 18-1.3-401.5 (7).

25 SECTION 2. In Colorado Revised Statutes, 18-1.3-401.5, amend
26 (10)(a)(V) as follows:

27 18-1.3-401.5. Drug felonies classified - presumptive and

1 **aggravated penalties - legislative intent.** (10) (a) Except for a level 1
2 drug felony, the presence of one or more of the following aggravating
3 circumstances at the time of the commission of a drug felony offense
4 requires the court, if it sentences the defendant to incarceration, to
5 sentence the defendant to a term of at least the midpoint in the
6 presumptive range but not more than the maximum term of the
7 aggravated range:

8 (V) The defendant committed a violation of section 18-18-405
9 (2)(a)(III)(A), and the unlawful distribution, manufacturing, dispensing,
10 or sale of the material, compound, mixture, or preparation weighed ~~more~~
11 ~~than fifty grams and contained fentanyl, carfentanil, benzimidazole~~
12 ~~opiate~~, MORE THAN TWO HUNDRED TWENTY-FIVE GRAMS AND CONTAINS
13 A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE; MORE THAN ONE
14 HUNDRED TWELVE GRAMS AND CONTAINS METHAMPHETAMINE, HEROIN,
15 KETAMINE, OR CATHINONES; MORE THAN FIFTY MILLIGRAMS AND
16 CONTAINS FLUNITRAZEPAM; OR MORE THAN FIFTY GRAMS AND CONTAINS
17 FENTANYL, CARGENTANIL, BENZIMIDAZOLE OPIATE, or an analog thereof
18 as described in section 18-18-204 (2)(g)."

Renumber succeeding section accordingly.

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