



House Corrections and Juvenile Justice Committee
March 6, 2024
Senate Bill 419
Testimony of the BIDS Legislative Committee
Presented by James Houston Bales and Lindsie Ford
Opposed

Dear Chairman Owens and Members of the Committee:

SB419 would modify the crime of aggravated endangering a child to include allowing a child to be near someone who might be possessing or distributing fentanyl or paraphernalia related to manufacturing fentanyl. The BIDS Legislative Committee opposes this bill for several reasons outlined below.

Fentanyl is a dangerous substance and addiction to fentanyl is a serious problem in communities across Kansas. In recent years, there has been a lot of attention paid to the opioid epidemic as a whole. Across the country, people are working hard to fight this problem and help those battling addiction. While this bill is obviously meant to be another well-intentioned step in that process, it is one that would result in more harm than good.

The primary purpose of K.S.A. 21-5601 is to protect children. This bill would add fentanyl to the same subsection that previously just targeted methamphetamine. By adding an additional controlled substance to this statute, the legislature would be signaling that it believes certain controlled substances are more dangerous than others. While it is important to take steps to reduce substance use disorder in Kansans, creating arbitrary distinctions and punishing them more harshly undermines the intent of the statute. If the legislature is going to classify fentanyl as more dangerous than other drugs, the goal of fentanyl related legislation should be to help those suffering from fentanyl addiction. It should not be to punish them more severely than others suffering from different addictions. This is particularly problematic from parents or those responsible for the care of the children. Any efforts that make it harder for people suffering from fentanyl addiction to access meaningful treatment will result in more harm to the children in those people's lives.

It is also important to note that, despite the specific targeting of methamphetamine in the mechanism now proposed for fentanyl, Kansas's methamphetamine problem has not abated in the least. In 2021, the Sedgwick County District Attorney's Office commented that in the four years preceding, methamphetamine involvement appeared in 18.5% of their overall cases, up from 11% at the beginning of the four-year period. Sheriff Jeff Easter of Sedgwick County also reported that 70% of drug crimes in Sedgwick County were for methamphetamine. Methamphetamine targeted legislation has failed. There is no reason to expect that laws specifically targeting the distribution of fentanyl will have any different effect.

Lastly, the language in SB419 and the statute it would modify is very broad. Much of the prohibited conduct is difficult to understand based solely on the language of the bill. First, in subsection (b)(2) the crime of aggravated endangering a child already prohibits allowing a child into an environment where someone "reasonably should know" that someone is distributing, possessing, manufacturing, or attempting to manufacture methamphetamine and "any fentanyl-related controlled substance." This is an incredibly high standard for the people of Kansas. As a criminal defense attorney, I spend a lot of time with a wide variety of people from all walks of life. I was on the planning committee for the Tenth Judicial District's new Drug Court and remain an active part of the program. Participants are all individuals with drug addictions working towards sustained recovery. Even with my experience, I cannot look at someone and know if they are possessing drugs at any given moment. I certainly cannot know if they are possessing drugs with the intent to distribute them. The legislature should not be creating laws that require Kansans to somehow be able to know the intentions of those around them. Nor should they require them to assume the worst of others.

For the above reasons, we oppose this bill and instead urge this committee to consider passing legislation to fund addiction treatment.

Thank you for your time.

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