



Bill Summary: Mandatory Minimums for Fentanyl SB 8 (Regan)

The Bill: SB 8 would create mandatory minimum sentences for trafficking mixtures of drugs containing fentanyl or fentanyl analogues. The mandatory sentences range from 2 to 9 years (see below), depending on the weight of the drug and the person’s criminal record. **FAMM opposes this bill.**

Bill Status: *This bill is not yet law.* To become law, it must go through the committee process, pass through both the Pennsylvania Senate and House of Representatives, and be signed by the governor.

SB 8 would reinstate mandatory minimum sentences: Individuals who violate Section 13(a) (14), (30), or (37) of the Controlled Substance, Drug, Device, and Cosmetic Act where the drug is a mixture of drugs containing fentanyl or a fentanyl derivative would be subject to the following mandatory sentences:

Drug Weight	Mandatory Minimum Sentence	Mandatory sentence if convicted of another drug trafficking offense at the time of sentencing
< 1 gram	2 years	3 years
1 gram to < 10 grams	3 years	4 years
10 grams to < 50 grams	4.5 years	5.5 years
50 grams to < 100 grams	6.5 years	7.5 years
At least 100 grams	8 years	9 years

Problems with SB 8:

- **Mandatory minimum sentences will not stop the opioid crisis.** Mandatory minimums did not prevent or stop Pennsylvania’s opioid crisis. Bringing them back will not solve our drug problems, either. In fact, research shows no significant relationship between mandatory sentencing and three key indicators of drug epidemics: illicit drug use, drug arrests, and overdose deaths.¹
- **SB 8 will give the same punishments to people who fund their addictions by selling drugs to friends and kingpins who bring large quantities of fentanyl into the state.** SB 8 prevents judges from considering all relevant facts and circumstances about the crime and the offender’s role or the need for mental health or drug treatment.
- **SB 8’s low fentanyl quantities will also produce counterproductive and unintended consequences.** Less than 10 grams of drugs containing any amount of fentanyl trigger mandatory sentences under SB 8. First, the low quantities required may cause some illicit manufacturers to make their drugs even more potent and fatal in even smaller quantities –



a product no one wants on the streets. Second, these small quantities guarantee that prison sentences and cells will be wasted on low-level drug sellers and people who use drugs and need drug treatment.

- **SB 8 applies regardless of whether a person knows their drugs include fentanyl:** Because fentanyl and its derivatives are often mixed into other drugs long before they are sold, many drug sellers and users do not know their drugs include these substances. People who sell what they think is a pure gram of cocaine will get a significantly harsher sentence if the drug turns out to include fentanyl or a derivative. It violates principles of *mens rea* to punish people for crimes they did not intend to commit.
- **SB 8 will produce unjust results because it punishes different kinds of drugs the same regardless of the amount of fentanyl present in a drug mixture:** Any amount of fentanyl in a mixture, no matter how small, can trigger a mandatory sentence. One gram of drugs that is 99 percent baking soda and one percent fentanyl will trigger the same mandatory minimum sentence as one gram of pure fentanyl. These kinds of outcomes are arbitrary and diminish respect for the justice system.
- **The opioid epidemic is a public health crisis, but SB 8 is not a public health approach:** SB 8 will force judges to ignore the needs of addicts and their families and instead require lengthy, expensive prison stays that will not foster rehabilitation. Instead of creating mandatory minimums that never solve our drug problems, Pennsylvania should invest more in drug courts, community and prison drug treatment, life-saving overdose medications and other protections for first responders, and mental health treatment.

ⁱ Pew Charitable Trusts, "[More Imprisonment Does Not Reduce State Drug Problems](#)," Mar. 8, 2018.