



SCOTT ALLEN

REPRESENTATIVE • 97TH ASSEMBLY DISTRICT

28 February 2023

Testimony on AB68 by Rep. Scott E. Allen

To Chairman Spiros and Members of the Committee on Criminal Justice and Public Safety:

Thank you for allowing me to testify today on AB 68 relating to reckless homicide and providing a penalty. This bill is one part of tackling the fentanyl crisis that we have here in Wisconsin. Fentanyl is a particular problem due to its potency. It is a synthetic opioid that is 50 times more potent than heroin and as much as 100 times more potent than morphine. It is extremely addicting and a very small amount can cause death.

A Janesville mother said, "Fentanyl poisoning is murder, it should be treated as such." She makes a fair point. Those who willingly distribute a deadly drug need to be held accountable. The reality is that many dealers are mixing fentanyl in with heroin or even fake prescription drugs. Dealers like fentanyl because of its highly addictive nature, and yet often victims have no idea that they are taking fentanyl.

In many cases the dealers know what they are selling, and in those cases where they don't, the dealers can utilize legalized fentanyl testing strips. There is no excuse for a dealer or distributor to offer fentanyl to anyone without knowing.

Currently, fentanyl poisoning that results in death is only a class C felony. The problem with a class C felony is that a judge may sentence the dealer to imprisonment, or they can also simply fine them instead.

We are all too familiar with the problem of revolving door criminals due to soft-on-crime judges. When unreformed criminals are released too soon, they come out and commit more crimes. When their crime is dealing drugs these merchants of death steal loved ones from families.

By raising this to a class B felony, judges must sentence those who commit this deed to imprisonment. Not only that, but every other reckless homicide in this chapter of the statutes are class B felonies except for reckless homicide via drug dealing. It's time to show that we believe that a homicide by dealing drugs is just as serious as any other reckless homicide.

Perhaps you might be wondering about why I keep talking about fentanyl when it is not mentioned directly in the bill. The rationale for this is that the synthetic opioid market keeps changing. Right now fentanyl is the problem, but 2 years from now, it might be a different drug. If this bill only mentioned fentanyl, we would be behind again in a couple of years. Instead, this

bill addresses all controlled substances that are schedule 1 or 2 to ensure that any future synthetic opioids will fall under this statute. I'm thankful to Senator Wanggaard for this particular change to the bill.

Another possible objection is that this bill does not contain a joint user defense. Will we be sending friends who were partaking together to jail in the same way as we would a drug dealer? My concern with the joint user defense is that it provides a loophole for any drug dealer to claim or an unintended potential defense for a nefarious homicide. Furthermore, with the legalization of fentanyl testing strips, there is no reason for anyone to accidentally offer someone fentanyl. Testing strips are available from any Wisconsin county health department.

District attorneys still have discretion on what charges are filed. This bill is not a threat to friends.

Fentanyl is a dangerous and often deadly drug. Those who distribute it, knowing full well the likelihood of death, should be punished when they do cause death. Fentanyl poisoning is murder, and it is time that we treat it as such.



Van H. Wanggaard

Wisconsin State Senator

February 28, 2023

Testimony on Assembly Bill 68

Thank you, Chairman Spiros, and committee members, for hearing Assembly Bill 68 (AB 68) today. AB 68 increases the penalty for providing someone with a schedule I or II controlled substance that results in the death of that person. I believe making this change will help save lives, and I appreciate Representative Allen working with me on this.

In recent years, the number of overdose deaths involving opioids has risen due the skyrocketing availability of synthetic opioids, mainly fentanyl. Sadly, a large number of the people that overdose on fentanyl, have no idea that they are actually ingesting it. This is because not only are illegal drugs like cocaine and heroin being laced with fentanyl, but counterfeit prescription drugs like Xanax and Oxycodone are as well. And, as I'm sure most of us know, just a trace amount of fentanyl is enough to kill a person.

I've been asked why a drug dealer would want to lace their drugs with fentanyl, and the answer is simple, it is extremely addicting. By adding fentanyl to their drugs, they create a dependency in their users, who will continue to come back to them. Of course, these drug dealers are not scientists or pharmacists and they make mistakes when they lace their drugs, with potentially deadly consequences for their clients.

These drug dealers know that fentanyl can kill, but they would rather risk their client's lives to make a quick buck. This needs to end.

In 1986, Len Bias was an All-American basketball player at the University of Maryland and the 2nd overall player drafted in the NBA. He and some friends were going out to celebrate when a friend of his convinced him to snort a line of cocaine. A few hours later he was dead.

Following Bias's death, legislature's throughout the country began passing what became known as "Len Bias Laws" which held individuals responsible for giving someone a drug that led to their death.

In Wisconsin, we placed that law under first-degree reckless homicide and classified it a Class C felony. It is the only crime categorized as first-degree reckless homicide that is a Class C felony – the rest are Class B felonies. The difference between a Class B and a Class C Felony is an additional 20 years in prison.

This bill will update our Len Bias Law and increase the penalty to a Class B felony in order to give prosecutors, and judges the ability to get these extremely dangerous drug dealers off of our streets for longer periods of time.

Again, thank you for your consideration of Assembly Bill 68. I urge your support.

Serving Racine and Kenosha Counties - Senate District 21

I am here today dressed in black to be a reminder of the mourning of the loss of my son, Cade Reddington was a Freshman at UWM who died from Fentanyl Poisoning. Cade had a good home and all the things to set him up to be a productive person. This drug issue crosses all demographics. The source of my deceased son's drugs, is still dealing and selling pills in WI. We know who it is and the authorities feel that they are not capable of deterring or stopping him. This drug dealer misrepresented what he was selling. He stated it was perkaset, but was 100% fentanyl. My son died within 2 hrs. of taking the pill.

Consequences need to match behaviors

To let the bad guys, go and not give them enough penalties is poor leadership.

You are leaders. Leaders are given the task to lead because you have the ability to create success. You have the ability to make success with the people of Wisconsin, thru the proper consequences that match the behavior. Please think of others and the citizens of Wisconsin. Correct this penalty severity for now and the future of our state. You have the ability to improve our state, or you have the ability to let your community down. Leaders make consequences for good behavior and bad behavior. To increase Penalties for illegal drugs is setting the correct consequences for wrong behavior.

I am here to say that stricter consequences are important tool and a good step to make changes in behaviors of people that do not have self-control over drugs. If people know the severity of consequences of bad behavior, it will be a deterrent.

I encourage you to think about others that have been affected by this problem. Realize that growth of this problem, is going to make it come closer to your family and friends. Or you can make WI a safer place and prevent more drugs in our communities.

Please approve this change in the law.

2/28/23

Michelle Kullmann Testimony in support of AB 68.

Good morning members of the Committee on Criminal Justice and Public Safety. My name is Michelle Kullmann and I live in Madison. I am writing in support of AB 68.

On November 4, 2021 at 6:00 am, I received the phone call of every parent's worst nightmare. My youngest of two sons, Cade Reddington, had passed earlier that morning in his dorm room at UW-Milwaukee, just a couple of weeks shy of his 19th birthday. I was told he had OD'd. I couldn't wrap my head around that. I said "What do you mean OD'd? Like dead, OD'd??" I just started screaming no, no, no. He wouldn't do that!

I knew Cade was recreationally using some marijuana and that he had dabbled with pills in high school, but I thought that was a phase he had gone through. I could not understand how he could have overdosed. He knew better and he would never take too much of something. He had hopes and dreams. He had his whole future ahead of him. He had just been home the weekend prior and told me he met with his advisor and that he was switching his major to psychology so he could go into counseling and told me how he wanted to travel the world.

What I found out in the coming days was that Cade took what he thought was a Percocet pill, but it turned out to be a fake pill that was 100% fentanyl. He didn't overdose, knowingly taking too much of a substance. He was deceived and poisoned to death by a fake pill that was stamped to look like a Percocet, but instead it was a fentanyl death pill. Prior to Cade's passing, I didn't know anything about fentanyl and certainly had never heard that ONE PILL COULD KILL.

Within a couple of weeks of Cade's death, the news hit that there were over 100,000 overdose deaths in the last year and that over 70% of them were due to fentanyl poisonings. Then, shortly after that, the reports came out that fentanyl is the leading cause of death among 18-45 year olds. I've now met countless grieving parents in Wisconsin and throughout the country who have all lost their precious kids to this same senseless tragedy. Deceived by what they thought was one Xanax, Adderall, or Percocet, or one line of cocaine and even marijuana.

Fentanyl has permeated every community in our country and teens and young adults can easily find a dealer on Snapchat and have drugs delivered to their door like a pizza. We need to tackle this epidemic on all fronts, from education in our schools, to harm reduction, to access to recovery and by cutting the supply and deterring dealers.

We're losing 300 people a day in our country to drug overdoses. That is like an airplane crash every single day. We have to reduce the stigma and start prosecuting these deaths as murder. I encourage you to pass AB 68 to increase the penalty for causing death from this horrific poison and prosecute fentanyl and all drug dealers under the same category of all other first-degree reckless homicides.



February 28, 2023

To: Chairman Spiros and Members of the Assembly Committee on Criminal Justice and Public Safety

From: Wisconsin Chiefs of Police Association

Re: Support Assembly Bill 68, Reckless Homicide Via Fentanyl

Chairman Spiros, thank you for your willingness to hold a hearing on this legislation. We would also like to thank the authors, Representative Allen and Senator Wanggaard.

In Wisconsin, and across the United States, the sale, use, and addiction of fentanyl is increasing at an alarming rate.

Illicit fentanyl, primarily manufactured in foreign clandestine labs and smuggled into the United States, is being distributed across the country and sold on the illegal drug market.

According to the Drug Enforcement Agency (DEA) two milligrams of fentanyl can be lethal depending on a person's body size, tolerance, and past usage. This startling fact, in combination with those under the influence of this drug who then get behind the wheel of a vehicle, often equate to fatal consequences. That is why the Wisconsin Chiefs of Police Association (WCPA) supports Assembly Bill 68.

Under current law, every crime categorized under first-degree reckless homicide carries with it the penalty of a Class B Felony, except for causing the death of another person by manufacturing, distributing, or delivering to them a controlled substance.

Assembly Bill 68 amends Wisconsin law so that the penalty for *every* first-degree reckless homicide charge is a Class B Felony. This change in statute will help address the serious issue of reckless homicide due to fentanyl.

The WCPA supports this legislation and urges the committee move forward on Assembly Bill 68.

We would be happy to take any questions regarding Assembly Bill 68.