

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 58
3 entitled “An act relating to increasing the penalties for subsequent offenses for
4 trafficking and dispensing or sale of a regulated drug with death resulting”
5 respectfully reports that it has considered the same and recommends that the
6 bill be amended by striking out all after the enacting clause and inserting in
7 lieu thereof the following:

8 Sec. 1. 18 V.S.A. § 4201 is amended to read:

9 § 4201. DEFINITIONS

10 * * *

11 (45) “Fentanyl” means any quantity of fentanyl, including any
12 compound, mixture, or preparation including salts, isomers, or salts of isomers
13 containing fentanyl. “Fentanyl” shall also mean fentanyl-related substances as
14 defined rules adopted by the Department of Health under section 4202 of this
15 title.

16 (46) “Knowingly” means actual knowledge that one or more
17 preparations, compounds, mixtures, or substances contains the regulated drug
18 identified in the applicable section of this chapter, or consciously ignoring a
19 substantial risk that one or more preparations, compounds, mixtures, or
20 substances contains the regulated drug identified in the applicable section of
21 this chapter.

1 Sec. 2. 18 V.S.A. § 4250 is amended to read:

2 § 4250. SELLING OR DISPENSING A REGULATED DRUG WITH
3 DEATH RESULTING

4 (a) If the death of a person results from the selling or dispensing of a
5 regulated drug to the person in violation of this chapter, the person convicted
6 of the violation shall be imprisoned not less than two years nor more than 20
7 years.

8 (b) This section shall apply only if the person's use of the regulated drug is
9 the proximate cause of ~~his or her~~ the person's death. The fact that a dispensed
10 or sold substance contains more than one regulated drug shall not be a defense
11 under this section if the proximate cause of death is the use of the dispensed or
12 sold substance containing more than one regulated drug. There shall be a
13 permissive inference that the proximate cause of death is the person's use of
14 the regulated drug if the regulated drug contains fentanyl.

15 (c)(1) Except as provided in subdivision (2) of this subsection, the two-year
16 minimum term of imprisonment required by this section shall be served and
17 may not be suspended, deferred, or served as a supervised sentence. The
18 defendant shall not be eligible for probation, parole, furlough, or any other type
19 of early release until the expiration of the two-year term of imprisonment.

20 (2) Notwithstanding subdivision (1) of this subsection, the court may
21 impose a sentence that does not include a term of imprisonment or that

1 includes a term of imprisonment of less than two years if the court makes
2 written findings on the record that the sentence will serve the interests of
3 justice.

4 Sec. 3. 12 V.S.A. § 4853b is amended to read:

5 § 4853b. UNLAWFUL OCCUPANT; EXPEDITED HEARING

6 (a)(1) In an action for ejectment, the landlord, the landlord’s agent, or the
7 tenant may file a motion for a judgment that the plaintiff is entitled to
8 immediate possession of the premises on the grounds that the defendant is a
9 person that is occupying a dwelling unit without right or permission and the
10 written rental agreement for the dwelling unit prohibits subleasing pursuant to
11 9 V.S.A. § 4456b(a)(2).

12 (2) The motion may be filed and served with the complaint or at any
13 time after the complaint has been filed. The motion shall be accompanied by
14 an affidavit setting forth particular facts in support of the motion and a copy of
15 the lease agreement.

16 (b) A hearing on the motion shall be held any time after 10 days’ notice to
17 the parties.

18 (c) At any time before the hearing, the defendant may oppose the motion
19 pursuant to Rule (7)(b)(6) of the Vermont Rules of Civil Procedure by filing an
20 affidavit, a signed written statement, or a memorandum in opposition to the
21 motion. The affidavit, signed written statement, or memorandum shall set forth

1 particular facts to show that a genuine dispute of fact exists in relation to the
2 motion.

3 (d)(1) If the defendant fails to appear for the hearing, or to file an affidavit,
4 signed written statement, or memorandum in opposition to the plaintiff's
5 motion, or has failed to file an answer in the time provided pursuant to Rule 12
6 of the Vermont Rules of Civil Procedure, the plaintiff shall be entitled to
7 judgment by default for immediate possession of the premises.

8 (2) If the court finds that the defendant is a person that is occupying the
9 dwelling unit without right or permission and the written rental agreement for
10 the dwelling unit prohibits subleasing pursuant to 9 V.S.A. § 4456b(a)(2), the
11 court shall grant the plaintiff's motion and issue judgment in favor of the
12 plaintiff for immediate possession of the premises.

13 (e) If the court issues judgment in favor of the plaintiff pursuant to
14 subsection (d) of this section, the court shall, on the date judgment is entered,
15 issue a writ of possession directing the sheriff of the county in which the
16 property or a portion thereof is located to serve the writ upon the defendant
17 and, not sooner than five days after the writ is served, to put the plaintiff into
18 possession.

19 (f) At any time prior to the execution of the writ of possession, the
20 defendant may file an affidavit, signed written statement, or a motion with the
21 court setting forth facts demonstrating that the defendant is occupying the

1 premises lawfully. The court shall treat an affidavit, signed written statement,
2 or a motion filed under this subsection as a motion pursuant to Rule 59 or 60 of
3 the Vermont Rules of Civil Procedure, as appropriate.

4 Sec. 4. XYLAZINE (placeholder)

5 Sec. 5. EFFECTIVE DATE

6 This act shall take effect on July 1, 2023.

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14 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE