

34 Recommendations of Independent Evaluation of HB22-1326 -- Colorado Fentanyl Accountability and Prevention Act

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Center for Prescription Drug
Abuse Prevention

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Preface

This summary is a guide to [the 262-page report](#) of the legislatively mandated independent evaluation of the implementation of [HB22-1326 Fentanyl Accountability and Prevention Bill](#) legislatively mandated to be conducted by the Colorado Department of Public Health and Environment (CDPHE). CDPHE first contracted with the Colorado Evaluation & Action Lab, University of Denver to prepare the “HB22-1326 Independent Study Fentanyl Accountability and Prevention Act: Analysis Plan” (2022). CDPHE then engaged [NPC Research \(NPC\)](#) to conduct the evaluation and to complete the report. Adjustments were made to the analysis plan, approved by CDPHE, and appeared in the scope of work that guided and authorized the study.

This summary was prepared by José Esquibel, Director of the [Colorado Consortium for Prescription Drug Abuse Prevention](#) (University of Colorado Anschutz Medical Campus, School of Pharmacy and Pharmaceutical Sciences) and reviewed by the following staff of NPC Research: Marny Rivera, Senior Research Associate, Erica Boyce, Research Associate and Project Director, and Laura Hunter, Research Associate.

This summary begins with an overview of the contents of the report followed by an overview of the study and an executive summary. The main body of this summary consists of the 34 recommendations along with findings of the study that support the recommendations.

Report Overview

HB22-1326 became law in May 2022 and included a requirement that a comprehensive evaluation of the implementation and impact of the bill be conducted by an independent entity with expertise in data collection, program analysis, and relevant criminal law and harm reduction issues. The bill directed the Colorado Department of Public Health and Environment (CDPHE) to contract with and oversee the independent entity.

This [report and the recommendations](#), which were released in February 2025, herein do not represent the views of the Colorado Department of Public Health and Environment, Colorado Office of the Governor's, or any other state agency.

The study relied on a variety of methods to evaluate the implementation and short-term outcomes of HB22-1326. Data collection processes differed slightly depending on the availability and type of information needed. NPC developed instruments for collecting primary data, such as survey and focus group questions, by drawing from the analysis plan developed by the Colorado Evaluation Action Lab as a foundation, reviewing literature and existing instruments, and meeting with knowledgeable individuals in Colorado. Questions and instruments that were drafted were reviewed by CDPHE, the advisory committee, and other experts (in and outside of Colorado) and were revised based on feedback from reviewers. The members of the advisory committee were subject matter experts from CDPHE, Colorado's Behavioral Health Administration, Colorado Consortium on Prescription Drug Abuse Prevention, the Colorado Attorney General's Office, as well as an elected District Attorney, a medication for opioid Use Disorder treatment provider, a criminal justice reform organization, and a harm reduction organization.

The evaluation also included secondary analysis of existing data, records, and information.

The full report is 145 pages in length with an additional 122 pages of appendices.

There were three main areas of focus in this evaluation, referred to as Assessment Areas:

1. Public Health and Harm Reduction Approaches
2. Acute Responses to Address Needs
3. Increased Criminal Penalties for Fentanyl Possession

Evaluation findings are presented for the each of the following sub-topics underlying the three assessment areas:

1. Public Health and Harm Reduction Approaches
 - a. Medication-Assisted Treatment in Jails (pages 15-27)
 - b. Harm Reduction Grant Program (pages 28-36)
 - c. Opioid Antagonist (Naloxone) Bulk Purchase Fund (pages 37-41)
 - d. Fentanyl Test Strip Orders (pages 42-43)
 - e. Statewide Fentanyl Prevention and Education Campaigns (pages 44-53)
 - f. Practitioner Perspectives: Strategies to Enhance Impact (pages 54-57)
 - g. Fentanyl-related Overdose Trends (pages 58-64)
 - h. Fentanyl Overdose Deaths While Under Supervision (pages 65-74)

2. Acute Responses to Address Needs
 - a. Managed Service Organization Services (pages 76-80)
 - b. Practitioner Perspectives: First Responders and Treatment (pages 81-88)
3. Increased Criminal Penalties for Fentanyl Possession
 - a. Judicial Branch Data (pages 91-121)
 - b. District Attorney Perspective (pages 122-129)
 - c. Effectiveness of Diversion Programs (pages 130-136)
 - d. Perspectives From People with Lived Experience (pages 137-142)

The recommendations based on the findings of this study appear on pages 143-145.

The report also includes two appendices not referenced in the Table of Contents. Pages 172 to 193 contain brief analyses and summaries of fentanyl possession court cases in each of the 22 Judicial Districts in Colorado for the period of July 1, 2022, to June 30, 2024. Pages 193 to 257 contain analyses and summaries of fentanyl possession court cases for each of Colorado's 64 counties. Of particular interest is the relative consistency seen in some characteristics of court cases across rural and urban Judicial Districts. The average age of offenders in fentanyl-related court cases is around 35 years of age. In all Judicial Districts, the majority of offenders (around 70%) were male and around 75% were white, with non-white offenders making up a much smaller percentage of fentanyl-related court cases. In all Judicial Districts, indigent individuals represented a quarter to a third of all fentanyl-related court cases.

Pages 91-121 of the report presents data from the Colorado Judicial Branch regarding fentanyl-related court cases for the period of July 1, 2022, through June 30, 2024. Appendix D contains details from the survey of 7 District Attorneys (pages 258-266).

In summary, the court data indicates that most fentanyl-related cases from July 1, 2022, through June 30, 2024, consisted of only fentanyl possession charges. However, approximately one-quarter of the fentanyl-related cases included possession charges in addition to either fentanyl manufacturing, distribution, or conspiracy.

Of the cases that exclusively had possession charges, almost 70% had misdemeanor charges, while approximately one-third of the possession cases contained felony charges. Therefore, fentanyl-related cases with only possession charges were more likely to have misdemeanor than felony fentanyl possession charges.

Approximately 45% of fentanyl possession cases received jail sentences, and 37% were mandated to probation services. This appears to be a higher percentage of jail and probation sentences than for drug-related misdemeanor cases before the legislation.

Study Overview and Executive Summary

With the passage of HB22-1326, Colorado enacted landmark legislation to address fentanyl problems in a comprehensive way through public health and criminal justice efforts. The legislation called for an independent evaluation of the implementation and short-term outcomes of the fentanyl accountability and prevention act.

The legislation and evaluation of its implementation and impact are important steps in addressing fentanyl-related problems in Colorado and there is more work to be done to address fentanyl and other substance misuse.

Implementing effective policies, services, and programs requires an intentional data collection strategy that allows those efforts to be assessed. Evaluation is important to determine the extent to which efforts have been implemented as intended and to uncover what is working well and where changes may be made to increase efficacy and enhance efficiency.

Colorado is encouraged to continue working to develop shared language and frameworks to further address the fentanyl issues experienced by the state. Continued collaboration and coordination using a multi-systems approach to address fentanyl and other substance misuse is also encouraged.

Limited resources must be prioritized to have the greatest impact on serious fentanyl-related problems and those impacts must be made and measured. There are several recommendations for Colorado to consider based on evaluation results from the study of Colorado's fentanyl accountability and prevention act.

An Executive Summary based on the results of the study by Assessment Area is presented on pages 10-13.

34 Recommendations

The report concludes with a list of recommendations by Assessment Area (pages 143-145). The recommendations are provided below along with select background information and summaries of findings from the study.

Public Health and Harm Reduction

Jail-based Medication-Assisted Treatment and Continuity of Care

1. Provide funding and increase the number of trained staff in jail-based MAT programs and that provide continuity of care after release in jails that need it – particularly in jails with larger populations – to adequately serve their populations. Additional state-level funding may help address current gaps.
2. Establish clearer policies and stronger guidelines for MAT in jails and additional education for jail decision-makers and staff about MAT to help address common misconceptions about MAT.

Background and Summary of Findings

- A survey on MAT in jails was developed to measure alignment with HB22-1326 requirements, as well as funding, barriers/challenges, and additional resources needed.
- There were 26 surveys completed for a response rate of 52% (26/50), which is considered a good response rate in survey research and a higher-than-average response rate for online surveys. A summary of the survey findings is on pages 18-23 of the report and the survey questions and all responses are provided in Appendix A.
- The results of the jail survey show a high degree of compliance with HB22-1326 requirements and alignment with best practices for offering MAT in jails.
- A large majority of facilities perform a non-medical evaluation (or screening) for substance use disorder (SUD) at booking and for any recent substance use, showing a high degree of alignment with best practices (SAMHSA, 2019) and expectations detailed in HB22-1326.
- Of the 25 facilities that offer MAT, 92% offer buprenorphine (e.g., Suboxone, Sublocade, Brixadi, Subutex), 88% offer naltrexone (e.g., Vivitrol, Revia), and 68% offer methadone. All facilities (100%) are equipped to administer naloxone (e.g., Narcan) in an overdose event.
 - 84% of respondents reported that their facility has collaborative partnerships with internal or external medical staff who support their MAT program.
 - While HB22-1326 encouraged jails to use funding available from opiate-related litigation settlements or damage awards to support compliance with requirements, in practice this has been a rare source of funding for MAT services in Colorado jails.

Harm Reduction Grantee Program

3. Allocate additional long-term funding with fewer restrictions for CDPHE's Harm Reduction Grant program to cover all necessary program expenses and consistently evolving challenges due to the unpredictability of the illicit drug supply and/or financial limitations. Provide necessary resources and flexibility to adequately support evidence-based or emerging practices as threats and risks evolve that can be tailored to their communities.
4. Increase state funding and resources for public health and harm reduction strategies with fewer restrictions to allow practitioners to deliver effective evidence-based services and resources. Include funding earmarked for practitioner training to help ensure best practices, promote effective service delivery, and incorporate emerging innovations.
5. Allocate additional funding for fentanyl test strips. These are inexpensive and an evidence-based method to prevent overdose that have a high impact on reducing unintended fentanyl use. CDPHE's HB22-1326 funds for fentanyl test strip distribution are set to expire in June 2025.

Background and Summary of Findings

- Managed by the Colorado Department of Public Health and Environment (CDPHE) Overdose Prevention Unit, the Harm Reduction Grant Program awards funding and support to local entities to develop and/or expand evidence-informed harm reduction programs to reduce health risks associated with substance use, prevent overdoses and overdose deaths, mitigate health disparities, and decrease involvement in the criminal justice system related to substance use.
- HB22-1326 expanded CDPHE's Harm Reduction Grant Program by increasing funding and broadening permissible activities and eligible entities.
- Page 31 of the full report provides data on the service provided by grantees from June 2023 through June 2024 and a description of the grant goals are on pages 32-35.
- Several challenges are noted in reports by grantees:
 - Some grantees experienced challenges in hiring staff to fill positions and others were challenged by the lack of capacity/bandwidth of current staff.
 - There is need for additional long-term funding to cover all necessary program expenses.
 - Stigma and misunderstanding of harm reduction sometimes created barriers to participant uptake of services and referrals due to fear of arrest and discrimination.
 - Consistently evolving challenges due to the inherent unpredictability of the illicit drug supply and policy and/or financial limitations on strategies such as on-site drug checking to support participants in maintaining awareness of emerging risks.
 - Pages 42-43 of the report provide data on fentanyl test strip distribution through local public health departments for the period of July 1, 2023 through June 30, 2024.

Naloxone

6. Allocate additional state funding for purchasing Naloxone. Naloxone has a high impact on reducing death from fentanyl and expanding naloxone access is considered a cost-effective best practice for overdose prevention.
7. Continue using the Naloxone Bulk Fund Prioritization Plan (an evidence-based plan to prioritize the distribution of naloxone to those entities working with people at risk of overdose death) to provide naloxone to high need or essential agencies to best reduce opioid overdoses, if needed.
8. Operationalize Medicaid reimbursement for naloxone distribution in emergency medicine settings or provide a different source of funding to sustainably deliver naloxone to individuals at risk of overdose.

Background and Summary of Findings

- Managed by the Overdose Prevention Unit in the Prevention Services Division within CDPHE, the Opiate Antagonist Bulk Purchase Fund aims to expand access to naloxone that will be used to save lives, provide naloxone at no cost to reduce the financial burden of key partners, and enhance safety and public health in Colorado.
- Multiple sources of funding support the Opiate Antagonist Bulk Purchase Fund.
- Data on Naloxone Distribution from the Bulk Purchase Fund for the period of July 1, 2022 through June 30, 2024 are presented on pages 38-40, including a map of distribution in Colorado.
- Due to the lack of ongoing funding, CDPHE developed and implemented a prioritization plan using evidence-based guidance from the Centers for Disease Control at the end of FY 2023-24 that prioritized providing naloxone to high need or essential agencies to best reduce opioid overdose with the fund's limited resources.
- Prioritizing naloxone distribution to agencies based on the highest potential impact may lead to more overdose reversals and greater sustainability for agencies that rely on this source of naloxone.

Statewide Fentanyl Education Campaigns

9. Measure the impact of Colorado's education campaigns. While the "Keep the Party Safe" campaign and CDPHE's statewide overdose prevention and fentanyl awareness campaign both plan to measure impact, these evaluations have not yet been conducted and may require additional funding. Demonstrating efficacy and areas for improvement may enhance the impact of these campaigns.

Background and Summary of Findings

- Campaign evidence demonstrates effectiveness in influencing opioid-related knowledge and attitudes at a population level.
- HB22-1326 required CDPHE to develop, implement, and maintain an ongoing statewide fentanyl prevention and education campaign tailored to the needs in Colorado.

- As of February 2024, CDPHE is in the process of developing and implementing a statewide Overdose Prevention + Fentanyl Awareness Campaign that will launch in 2025. Two key components shaping this campaign are the use of an advisory group and an extensive research plan. Additional details are found on pages 49-52.
- There are also several relevant existing campaigns in Colorado and there has been coordination between these campaigns so that each has a unique target audience, message, and strategy to address fentanyl use and overdose in Colorado.
- Information on the Keep the Party Safe fentanyl campaigns is found on pages 45-48.

Harm Reduction Practitioner Perspectives

- Colorado practitioners are using evidence-based public health and harm reduction strategies that have been shown to save lives, reduce infectious disease transmission, and improve physical health, mental health, and well-being, including:
 - Distributing Naloxone (Narcan) through various avenues, including agencies, street outreach, community partners, and at events.
 - Providing safer use supplies, including fentanyl test strips, xylazine test strips, pipes/smoking supplies (to reduce risks related to injections), and syringes.
 - Conducting overdose prevention education.
- Advocating public health and harm reduction strategies in the policy arena to shape legislation, policies and practices, and to gain needed resources.
- Expanding collaborations with community partners to boost resources and service delivery, including expanding services in underserved communities or tailoring services in culturally responsive ways.
- Reducing intimidation with a stigma-free/non-judgmental approaches and inviting people to receive services.
- Listening and learning from people who use fentanyl to effectively implement and deliver needed services.
- Identifying and filling in gaps, such as through engaging community navigators to fill in the gaps from contracted partners or working with jails to ensure they provide people with the tools and education they need upon release.
- The practitioners identified two major challenges and barriers to connecting with and effectively serving individuals who use fentanyl in their communities:
 - *Increased criminalization and the resulting fear* were the most common barriers cited by practitioners.
 - *Not enough public health professionals engaging actively in the policy arena*, including public health professionals or leadership with lived experience.
- Practitioners were asked to identify resources and support that would be most useful to expand the reach and effectiveness of their work. Practitioners said the following would be most helpful:
 - More funding with less restrictions that allows practitioners to deliver effective evidence-based services and resources.
 - Additional funding for training for practitioners, which could help ensure effective service delivery, implementation of best practices, and incorporating emerging innovations.

- More advocacy from “public health officials to be proponents of sensible prevention efforts.”
- Additional public health campaigns to 1) change the understanding of effective strategies around fentanyl use and 2) reduce stigma and raise awareness and compassion which may increase public support for resource allocation and successful strategies to address fentanyl use.

People with Lived Experience

10. Increase opportunities for leadership and collaboration with people with lived experience to shape and improve policies, practices, and services for those directly impacted by them.

Social Determinants

11. Include strategies that address the underlying causes of substance use, such as poverty and a lack of housing, as part of the long-term multi-system effort to reduce substance use.

Fentanyl-related Overdose Data

12. Use fentanyl overdose data as a baseline for future comparisons. Continue collecting and monitoring population data to assess the impact of HB 22-1326 on overdose rates and determine whether Colorado is following national trends. Conduct a more comprehensive review of fentanyl-related trends throughout the state that includes additional sources of data, such as fentanyl-related visits in the healthcare setting documented in ICD10-CM codes.”

Background and Summary of Findings

- While Colorado has implemented several harm reduction strategies as a result of HB 22-1326, it is too early to demonstrate community-level impact using population-level data as an indicator of change.
- The Colorado fentanyl-related overdose death and non-fatal synthetic opioid overdose data are summarized by year between 2018 and 2023 are presented on pages 59-64 and should be used as a baseline for future comparisons.
- Continuing to collect and monitor population data will help assess the impact of HB 22-1326 on overdose rates and to determine whether Colorado is following national trends.
- The data on fentanyl overdose deaths presented for the years 2018-2023 includes:
 - Statewide Fentanyl Overdose Deaths, including data by gender, race and ethnicity, age, by Judicial District, and top five counties (see pages 59-64 and Appendix B)
 - Data results indicate that the percentage of all drug overdose deaths that are fentanyl-related has been trending upward between 2018 and 2023.

- A higher percentage of females died from fentanyl overdose deaths in 2018 and 2019; however, that percentage has decreased over the last few years, with the lowest percentage in 2023.
- The percentage of deaths by white individuals has been trending downward since 2020, suggesting that overdose deaths by non-white individuals are rising.
- There was an increase in the percentage of individuals between 35 and 64 who overdosed on fentanyl between 2022 and 2023.
- The report also include data on fentanyl overdose death for individuals who under supervision in the Colorado criminal justice system between 2018 and 2023, including under supervision of the Department of Corrections (DOC), and Division of Probation Services supervision between 2018 and June 30, 2024. See pages 65-73. Key findings include:
 - 16% (221) of the deaths reported by the DOC between 2018 and June 30, 2024, were fentanyl related.
 - 17% (430) of the deaths reported by the Probation Department between 2018 and June 30, 2024, were fentanyl related.

Acute Responses to Address Needs

Managed Service Organizations (MSOs)

13. Require contracted providers to track data on the number of people who receive each service type (withdrawal management, crisis stabilization, and MAT) and report the number of people served by type to Managed Services Organization (MSO) and BHA to better understand service reach and needs.
14. Provide sufficient funding and resources to cover the range of needed crisis intervention services.

Background and Summary of Findings

- HB22-1326 (Section 36) appropriated \$10 million to BHA over fiscal years 2023, 2024, and 2025 for MSOs to contract to provide short-term residential placement with withdrawal management, crisis stabilization, and MAT for persons in immediate need of detoxification and stabilization services.
- In addition to funding contracted treatment services, MSOs are required by legislation to ensure contracted providers train and coordinate with first responders concerning the available services in lieu of arrest and transport to jail.
- During FY 2024, three MSOs -- Diversus Health, Rocky Mountain Health Partners, and Signal Behavioral Health Network contracted with 12 provider sites that made services available in 19 counties using funding from HB22-1326.
- Data on MSO funded services from July 1, 2023 through June 30, 2024, appear on pages 77-80. Reported highlights from contracted providers include:
 - Overall, 2,954 people were served by the MSO-contracted providers.

- Most contracted providers offered medication assisted treatment (MAT)/medications for opioid use disorder (MOUD; 91%) and withdrawal management (91%), while fewer offered crisis intervention services (33%).
- MSOs reported offering nine different training sessions on MAT and related services with 160 participants.
- All three MSOs reported expanding the level and reach of services across various contracted sites.
- Two MSOs (Signal Behavioral Health Network & Diversus Health) reported working with their providers to facilitate the training and certification of peer recovery specialists.
- All three MSOs reported that providers are struggling with funding limitations.
- All three MSOs reported a lack of providers in their service areas. Often this is a greater challenge in rural areas where there are few providers and insufficient resources to support recovery efforts.

Co-Responder Efforts and Crisis Services

15. Collect data on training and coordination efforts by MSO contracted providers with co-responders regarding available services to be utilized in lieu of arrest and transportation to jail.
16. Evaluate the impact of training and coordination efforts with co-responders on arrests and transports to jail.
17. Build treatment and crisis service provider capacity, especially in rural areas with few providers and areas experiencing population growth.
18. Expand the adoption of co-responder models in Colorado to utilize limited resources efficiently.
19. Enhance law enforcement training on responding to individuals with substance use disorders and evaluate the effectiveness of the training.

Continuing Care

20. Invest more resources in continuing care to maintain treatment gains, achieve or sustain abstinence, and prevent relapses. Research generally supports the efficacy of continuing care.

Sober Living

21. Increase funding for sober living facilities to support continued treatment engagement and provide an environment supportive of recovery.

Background and Summary of Findings

- A focus group was conducted in July 2024 with first responders (including law enforcement officers) and treatment providers.
- There were 15 attendees that represented a range of agencies and roles. Five were first responders, three were in other roles in the criminal justice system, six were in treatment-related roles, and one did not specify their role. Here are a few highlights of their response:
 - First responders described attending helpful training opportunities but also expressed the desire for mandatory trainings on responding to individuals with SUDs.
 - More funding for naloxone is needed, including for distribution in emergency departments.
 - More community outreach to address the fear of prosecution when calling emergency services for help with overdoses.
 - In-patient treatment options are lacking, especially for certain populations
 - Some professionals said they have seen declines in calling for help in overdose events, which may directly increase overdose deaths
 - Harm reduction groups are at the forefront of training professionals within law enforcement and the larger criminal justice system.

Increased Criminal Penalties for Fentanyl Possession

Good Samaritan Law

22. Support community training and outreach statewide to address the fear of prosecution when calling emergency services for help with overdoses.
23. Increase understanding of legal protections under the Good Samaritan Law, particularly by those most at risk of overdose.

Distribution Causing Death

24. Pursue charges for distribution causing death more consistently, and provide additional resources as needed to effectively do so (e.g., resources including staff time and/or equipment for prosecutorial offices, law enforcement agencies, coroner's offices, etc.).
25. Update language requiring fentanyl to be the proximate cause of the death to avoid barriers in charging for distribution causing death.
26. Conduct more research on how HB22-1326 impacted prosecutors' charging decisions using qualitative methods with the individuals who make these decisions. Prosecutorial discretion has a high impact on criminal penalties and criminal justice outcomes.

Background and Summary of Findings

- The first recommendation is based on a comment made by a single District Attorney in the survey that was conducted (see page 266):

“While the distribution causing death has been the most impactful provision, it was and remains challenging to implement, given the prosecutorial resources it has taken as well as resources from law enforcement agencies, coroner's office, and the coordination and development of all of the above from our office.”

- The second recommendation is from a statement submitted by a law enforcement officer:

“What we struggle tremendously with this bill is the language surrounding the distribution resulting in death charge. In the statute, fentanyl has to be the proximate cause of the death. When we first started working and seeing a lot of overdose deaths, fentanyl was in the system and a lot of times was the proximate cause of death. We don't see that anymore. Almost every overdose death we see now is poly-drug. It's not just fentanyl in their system. In law enforcement, we're going after drug trafficking organizations and trying to stop the flow into Colorado. But we're not getting anywhere with charging a lot of our overdose cases and going after these distributors because the way the statute is worded with it having to be fentanyl as the proximate cause.

- On page 12 of the report, there is this statement by the report authors:

“Law enforcement officers noted that language requiring fentanyl to be the proximate cause of the death hindered their ability to charge for distribution causing death because many overdose deaths are poly-substance with various substances in the system. Instead, federal charges continue to be pursued in many cases due to language that allows for charges related to serious bodily injury or death from the delivery of any drug.’

Diversion

27. Use existing prosecutorial-led pre-trial diversion programs in fentanyl cases. Ensure that District Attorneys and Assistant District Attorneys are aware of diversion programs in their area.
28. Implement more deflection programs to support recovery and reduce criminal behavior before contact with the criminal justice system. Provide training, coordination, and referral information to make it easy for first responders to connect people who need services instead of arrest and transport to jail.

Background and Summary of Findings

- Information on the effectiveness of diversion programs is found on pages 130-135 of the full report.
- Diversion programs avoid the expenses and financial investment required in processing criminal cases, especially with cases involving low-risk individuals.
- Diversion programs help improve public safety by decreasing risk of a large number of people, especially lower-risk individuals.
- As of 2022, there were 22 diversion programs in the state of Colorado. According to the State Court website, diversion programs are operated by local district attorney offices, county criminal justice services agencies, or other organizations within their judicial districts.
- Most (if not all) programs appear to offer diversion for adults and juveniles with some programs offering their own juvenile coordinators/tracks. Many programs serve more than one county; in rural areas, multiple counties are served by one diversion program.
- None of the District Attorneys surveyed said they frequently referred defendants with charges for fentanyl possession to a diversion program and most said they were not likely to do so. Instead, the District Attorneys indicated that from their perspective HB22-1326 helps promote treatment access and completion, and about half felt their districts have resources and treatment options to effectively treat SUDs.

Fentanyl Education Program

29. Conduct research on the implementation of the Behavioral Health Administration's Fentanyl Education Program (FEP) required to be completed for people ordered by a Colorado court to ensure accountability for court referral and program completion and areas for possible process improvement. The FEP was not included in the original evaluation plan developed by the Colorado Evaluation & Action Lab.
30. Evaluate the impact of the Fentanyl Education Program on individuals' subsequent behaviors and personal-level factors that may influence its impact.
31. Conduct more research to better understand areas for process improvement on the implementation and impact of the Fentanyl Education Program on individuals' subsequent behaviors and personal-level factors that may influence its impact.

SUD Assessments and Treatment

32. Increase communication between the court system, probation, and treatment services to create a system that effectively captures substance use disorder assessments and treatment services.
33. Collect data that will allow for assessment of the HB22-1326 requirement that individuals convicted of fentanyl possession charges complete a substance use disorder assessment and receive treatment services if indicated.
34. Conduct additional research on the efficacy of court-ordered treatment as mandated rather than voluntary, particularly for people who use fentanyl.

Perspective from People with Lived Experience

People with lived experience were interviewed to understand ways that the increased criminal penalties and other justice system changes from HB22-1326 directly impacts those at risk for charges related to fentanyl possession. See pages 137-142 for complete details.

There were 11 interviews conducted with individuals with justice system involvement and/or a history of substance use. Of these 11, four were charged with fentanyl possession specifically since July 2022. Interviewees received a \$30 grocery store gift card to compensate them for their time.

The perspective of the 11 people with lived experience is a snapshot of perspectives from a small sample of individuals actively engaging in community organizations. This group may have very different perspectives than people who use fentanyl or who have fentanyl possession charges who are not obtaining services.

The themes that emerged from the interviews include:

- Fentanyl is seen as a more harmful and addictive substance than other substances.
- Court-ordered treatment promoted recovery in individuals who were ready for change.
- Four individuals arrested for fentanyl possession all supported increased criminal penalties for fentanyl possession as a way to put people on the path to recovery.
- Among the other eight individuals, there was some strong opposition to increased criminal penalties and the criminalization of health disorders among other interviewees.
- Individuals cited the need to treat underlying conditions that contribute to substance use, particularly experiencing homelessness and mental health conditions.
- This group said HB22-1326 would not impact whether they would call 911 for overdoses, but they were uncertain if they could be charged in the process.
- Individuals identified resources that helped them, including community organizations, sober living facilities, treatment providers, and the Road to Recovery program.
- Interviewees identified needed resources:
 - Resources to meet basic human needs, such as assistance with food (e.g., fruits, vegetables, cooking/eating utensils), access to prescription medications and glasses, gloves, socks, etc.
 - More treatment options, including greater access to MAT and medicated detoxing facilities.
 - Assistance with housing.
 - Job assistance.
 - Safer use resources, such as harm reduction supplies or staffed safe use havens.
 - Better public defense in drug charge cases.

The interviewees with lived experience had varied and diverse perspectives but generally felt that fentanyl is a uniquely harmful and highly addictive substance. Court-ordered treatment helped promote recovery in this small sample, but more research is needed on the efficacy of court-ordered treatment as mandated rather than voluntary, particularly for people who use fentanyl.

Because those interviewed seemed unclear if they could be charged after calling emergency services for help when witnessing an overdose, more community outreach and trainings on legal protections and the Good Samaritan Law should be provided to populations at risk for overdose.