



# San Clemente

CELEBRATING 90 YEARS OF INCORPORATION

**OFFICE OF THE MAYOR  
AND CITY COUNCIL**

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*“The Spanish Village  
by the Sea”*

January 31, 2023

The Honorable Thomas J. Umberg  
1021 O Street, Room 6530  
Sacramento, CA 95814

**Re: Support for SB 44 (Umberg)**

Dear Senator Umberg:

On behalf of City of San Clemente, we write in support of your bill, Senate Bill 44, also known as Alexandra’s Law, which will establish the California Fentanyl Admonishment – an important tool to help law enforcement in the prosecution of fentanyl trafficking and related deaths.

Fentanyl is a synthetic opioid 100 times more potent than morphine. It can be found in methamphetamine, cocaine, heroin, and vaping products, as well as counterfeit pharmaceutical pills such as Xanax, Percocet, hydrocodone or Oxycodone among others.

Statistics show the opioid crisis has significantly worsened since fentanyl entered the illicit drug market. Specifically, fentanyl was the number one cause of death last year for people ages 18-45, outpacing suicides, automobile accidents, and COVID-19. Fentanyl causes a fatality approximately every 7-8 minutes, and is linked to 64% of total drug fatalities in 2021.

In California, Driving Under the Influence (DUI) offenders are read an advisory in court to inform them that repeated offenses resulting in death can be charged as manslaughter or murder. SB 44 models this platform by establishing a statewide Fentanyl Admonishment to be issued to fentanyl dealers and traffickers who actions result in death.

San Clemente is proud to support SB 44 (Umberg/Ochoa Bogh), Alexandra’s Law, in an effort to provide justice to thousands of California families and deter those who deal deadly drugs from continuing to do so. We know this law will add an important tool for counties and agencies grappling with our opioid epidemic.

Sincerely,

Chris Duncan  
Mayor



OFFICE OF THE  
**DISTRICT ATTORNEY**  
ORANGE COUNTY, CALIFORNIA  

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TODD SPITZER

FOR IMMEDIATE RELEASE

PRESS RELEASE

Date: November 9, 2021

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**Orange County District Attorney Todd Spitzer Announces Drug Dealers Can Now Face Murder Charges if Someone Dies from Fentanyl Poisoning**  
*Fentanyl Deaths have increased 1000% in Orange County over the last five years; Orange County law enforcement agencies, DEA join District Attorney in warning drug dealers and distributors*

SANTA ANA, Calif. – Orange County District Attorney Todd Spitzer announced today his prosecutors will now be able to charge convicted drug dealers with murder if they manufacture or sell drugs, including fentanyl, and someone dies as a result. District Attorney Spitzer was joined by Riverside County District Attorney Mike Hestrin and Drug Enforcement Administration (DEA) Deputy Special Agent in Charge Curt Fallin along with a coalition of law enforcement leaders and grieving parents who have lost children to fentanyl poisoning to announce the change in how drug-related deaths will be handled by California’s third-largest prosecutor’s office as well as law enforcement agencies across Orange County.

Fentanyl deaths have skyrocketed across the United States over the last few years, with Orange County experiencing a 1,000% increase over the last five years as a result of an increase in fentanyl being sold under the guise of other less potent drugs. Statewide, fentanyl deaths have increased 1,513%.

The Riverside County District Attorney’s Office is currently prosecuting seven fentanyl-related murder cases.

Fentanyl is reportedly 60 to 100 times more potent than morphine and some fentanyl analogues may be as much as 10,000 times more potent. A mere two milligrams of these substances may be deadly.

“These are not overdoses. These are murders,” said Orange County District Attorney Todd Spitzer. “These dealers are essentially handing a loaded gun to unsuspecting victims knowing that they will probably die and they don’t care. Fentanyl is cheap, it’s easy to get, and it’s killing people who had no idea they were taking it. I refuse to let these drug dealers get away with murder. No parent should have to pick out their child’s casket or think about what their headstone should read. Many of these teenagers and very young people are dying because they thought they were buying drugs to ease anxiety and instead drug dealers sold them a fatal dose of fentanyl. Not a single drug on the street should be considered safe. It only takes one pill. One time.”

To confront this deadly epidemic, the Orange County District Attorney’s Office and our law enforcement partners are also taking proactive measures to educate and prosecute drug offenders who have or may traffic substances contaminated with Fentanyl and fentanyl analogues.

The Orange County District Attorney’s Office has adopted a policy to administer an advisement in qualifying cases to educate offenders about the dangers of Fentanyl and related substances.

Defendants convicted of a variety of drug-related charges, including possession for sale of cocaine, heroin and opiates which most commonly contain Fentanyl, loitering to commit a controlled substance offense, and transportation of a controlled substance for sale, will be advised of the dangers of controlled substances and if they commit a drug-related crime again and someone dies as a result they can be charged with murder.

The advisement is similar to the Watson advisement which California law requires be given to drivers convicted of driving under drugs or alcohol that warns that if the driver drives under the influence again and kills someone, they can be charged with murder.

Earlier this year, the state Legislature rejected SB 350 which would have made controlled substance advisement a state law requirement. Without that requirement in place, the Orange County District Attorney's Office is joining several other District Attorney's Office across California in doing what the Legislature has failed to do—protect victims in our county.

The Orange County District Attorney's Office is also working with the Orange County Sheriff's Department and police departments across Orange County to formally warn drug dealers and manufacturers of the deadly consequences of fentanyl and other controlled substances at the time of their arrest. This advisement will also allow prosecutors to consider additional charging options for repeat drug dealers in the event someone dies as a result of their actions. The Orange County Sheriff's Department and every single police department in Orange County have committed to providing an advisement at the time of arrest.

"For the past five years my department has been sounding the alarm on fentanyl," said Orange County Sheriff Don Barnes. "I have sponsored legislation to address disparities in the law by increasing the penalty for those trafficking this deadly substance. Unfortunately, the majority of our legislators have not been willing to enact this commonsense proposal. In an effort to address this inaction, my department has begun issuing advisements to all those arrested for selling narcotics. The advisement states that if a dealer sells, furnishes, or distributes drugs to someone, and that person dies as a result of using the drugs, they can be charged with murder. The gravity of this advisement makes clear that those engaged in furthering the drug epidemic will face consequence for their careless treatment of life."

Fentanyl and its analogues are regularly used in drug-trafficking due to their low cost and potency. They often lead to deadly consequences.

"These drug dealers, these purveyors of death, are well aware of the poison they are handing out to your friends, your neighbors, your children, your children's friends — your family," said Matt Capelouto, whose 20-year-old daughter died from fentanyl poisoning two days before Christmas 2019. "They make a conscious decision to sell a potentially life-ending, fake pill to a human being without regard for the repercussions. We have the opportunity to create real accountability for the actions of drug dealers that are literally murdering thousands of Americans."

According to the Centers for Disease Control and Prevention, people under the age of 50 are more likely to die from drugs than any other cause including heart disease and cancer. Many of these deaths are young people who believed they were taking drugs like Oxycontin, Xanax and Percocet and instead were unknowingly supplied a fatal dose of fentanyl.

"These drug dealers are preying on unsuspecting individuals and filling their pockets with cash, while families are left with the devastating consequences," said Drug Enforcement Administration (DEA) Deputy Special Agent in Charge Curt Fallin. "Fentanyl overdoses have ripped through communities not just in Orange County, but nationwide. We are committed to doing everything we can to save lives and stop the deadly surge of drug overdoses. In the meantime, I hope that Californians will spread the word that one pill can kill."

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Introduced by Senator Umberg

December 05, 2022

An act to add Section 11369 to the Health and Safety Code, relating to controlled substances.

## LEGISLATIVE COUNSEL'S DIGEST

SB 44, as introduced, Umberg. Controlled substances.

Existing law makes it a crime to possess for sale or purchase for purpose of sale, transport, sell, furnish, administer, give away, manufacture, compound, convert, produce, derive, process, or prepare various controlled substances, including, among others, fentanyl, peyote, and various other opiates and narcotics.

This bill would require a person who is convicted of, or who pleads guilty or no contest to, the above crimes to receive a written advisory of the danger of manufacturing or distribution of controlled substances and that, if a person dies as a result of that action, the manufacturer or distributor can be charged with voluntary manslaughter or murder. The bill would require that the fact the advisory was given be on the record and recorded on the abstract of conviction.

### Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

### Bill Text

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 11369 is added to the Health and Safety Code, to read:

11369. (a) This section shall be known, and may be cited, as Alexandra's Law.

(b) The court shall advise a person who is convicted of, or who pleads guilty or no contest to, a violation of Section 11351, 11352, or 11379.6 of the following:

“You are hereby advised that the illicit manufacture or distribution of controlled substances, either real or counterfeit, inflicts a grave health risk to those who ingest or are exposed to them. It is extremely dangerous to human life to manufacture or distribute real or counterfeit controlled substances. If you do so, and a person dies as a result of that action, you can be charged with voluntary manslaughter or murder.”

(c) The advisory statement shall be provided to the defendant in writing, either on the plea form or after sentencing, and the fact that the advisory was given shall be on the record and recorded in the abstract of the conviction.