

HOUSE No. 1931

The Commonwealth of Massachusetts

PRESENTED BY:

Steven G. Xiarhos

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to fentanyl arrests.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Steven G. Xiarhos</i>	<i>5th Barnstable</i>	<i>2/16/2021</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>2/18/2021</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>2/18/2021</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>2/19/2021</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>2/22/2021</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>	<i>2/26/2021</i>
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	<i>2/26/2021</i>
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>	<i>4/8/2021</i>

HOUSE No. 1931

By Mr. Xiarhos of Barnstable, a petition (accompanied by bill, House, No. 1931) of Steven G. Xiarhos and others relative to fentanyl arrests. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to fentanyl arrests.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 42 of chapter 276 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting in line 13, after the word “58A”, the following
3 words:- ; and, provided further, that if a person is arrested for a violation of section 32 of chapter
4 94C for the manufacture, sale or distribution of fentanyl, subsections (c ½) or (c ¾) of section
5 32E of said chapter 94C or subsection (a) of section 32F of said chapter 94C for the manufacture,
6 sale or distribution of fentanyl, any bail shall be assessed pursuant to sections 57 and 58.

7 SECTION 2. Section 57 of said chapter 276, as so appearing, is hereby amended by
8 inserting after the sixth paragraph the following paragraph:-

9 Except where prohibited by this section, for any violation of (i) section 32 of chapter 94C
10 for the manufacture, sale or distribution of fentanyl; (ii) subsections (c ½) or (c ¾) of section 32E
11 of said chapter 94C; or (iii) subsection (a) of section 32F of said chapter 94C for the
12 manufacture, sale or distribution of fentanyl, a person arrested, who has attained the age of 18

13 years, shall not be admitted to bail sooner than 6 hours after arrest, except by a judge in open
14 court. The arrested person shall not be released out of court by a clerk of courts, clerk of a
15 district court, bail commissioner or master in chancery. Any person authorized to take bail for
16 such violation may impose conditions on a person's release in order to ensure the appearance of
17 the person before the court and the safety of the person, any other individual or the community;
18 provided, however, that the person authorized to take bail shall, prior to admitting the person to
19 bail, modifying an existing order of bail or imposing such conditions, have immediate access to
20 all pending and prior criminal offender record information, board of probation records and police
21 and incident reports related to the person detained, upon oral, telephonic, facsimile or electronic
22 mail request, to the extent practicable.

23 SECTION 3. Section 58 of said chapter 276, as so appearing, is hereby amended by
24 inserting after the fifth paragraph the following paragraph:-

25 Except where prohibited by section 57, for any violation of (i) section 32 of chapter 94C
26 for the manufacture, sale or distribution of fentanyl; (ii) of subsections (c ½) or (c ¾) of section
27 32E of said chapter 94C; or (iii) subsection (a) of section 32F of said chapter 94C for the
28 manufacture, sale or distribution of fentanyl, a person arrested, who has attained the age of 18
29 years, shall not be admitted to bail sooner than 6 hours after arrest, except by a judge in open
30 court. The arrested person shall not be released out of court by a clerk of courts, clerk of a
31 district court, bail commissioner or master in chancery. Any person authorized to take bail for
32 such violation may impose conditions on a person's release in order to ensure the appearance of
33 the person before the court and the safety of the person, any other individual or the community;
34 provided, however, that the person authorized to take bail shall, prior to admitting the person to
35 bail, modifying an existing order of bail or imposing such conditions, have immediate access to

36 all pending and prior criminal offender record information, board of probation records and police
37 and incident reports related to the person detained, upon oral, telephonic, facsimile or electronic
38 mail request, to the extent practicable.