

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 616

**PRINTER NO.** 4473

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

February 28, 2019

**PRIME SPONSOR**

Representative Owlett

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 616 amends the Controlled Substance, Drug, Device and Cosmetic Act (act) by adding Carfentanil to Schedule II drugs controlled by the act. Schedule II drugs, substances or chemicals are defined in the act as having a high potential for abuse, currently accepted medical use in the United States or currently accepted medical use with severe restrictions, and abuse of which may lead to severe psychic or physical dependence.

Carfentanil is a synthetic opioid (fentanyl-related substance) that is currently listed as a Schedule II controlled substance under the federal Controlled Substances Act.

Due to a change in federal law, there is language in the legislation to clarify that a drug product in a finished dosage formulation that contains 2-[1R-3-methyl-6R-(1methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol that has been approved by the federal Food and Drug Administration pursuant to section 505 of the federal Food, Drug and Cosmetic Act prior to the date of enactment shall not be subject to control under this act.

This act shall take effect immediately.

**FISCAL IMPACT:**

In October 2016, the Secretary of Health temporarily placed Carfentanil in Schedule II of the Controlled Substance, Drug, Device and Cosmetic Act (act). Section 3(d) of the act allows the Secretary of Health (secretary) to temporarily schedule a substance if necessary "to avoid an imminent hazard to public safety." A temporary scheduling of a drug lasts for one year and may be renewed for an additional year. In addition, the secretary has the discretion at the end of the two-year period to either proceed with permanent scheduling by submitting a final regulation or to publish a notice that a substance should not be permanently scheduled. Because Carfentanil was only temporarily placed on Schedule II of the act in 2016, the ability to prosecute for possession and/or illegal use of Carfentanil under the act expired in 2018.

# **SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE**

According to 2019 data from the Pennsylvania Commission on Sentencing (commission), there were 389 convictions for all Fentanyl sentences, including Carfentanil. The commission and district attorneys estimate that 10% of Fentanyl cases involve Carfentanil.

Assuming 39 defendants will be convicted by adding Carfentanil back to Schedule II and a marginal cost of \$18.34 per inmate/per day, the Commonwealth will incur additional annual costs of approximately \$261,070 as a result of this legislation.