



February 3, 2025

Senate Majority Leader John Thune  
U.S. Senate  
Washington, DC 20510

Senate Minority Leader Chuck Schumer  
U.S. Senate  
Washington, DC 20510

Speaker Mike Johnson  
U.S. House of Representatives  
Washington, DC 20515

House Minority Leader Hakeem Jeffries  
U.S. House of Representatives  
Washington, DC 20515

CC: Senate Judiciary Committee Chair Chuck Grassley, Senate Judiciary Committee Ranking Member Dick Durbin, House Energy & Commerce Committee Chair Brett Guthrie, House Energy & Commerce Committee Ranking Member Frank Pallone, House Judiciary Committee Chair Jim Jordan, and House Judiciary Committee Ranking Member Jamie Raskin

**RE: Vote NO on the HALT Fentanyl Act (H.R. 27 / S. 331)**

Dear Majority Leader Thune, Speaker Johnson, Minority Leader Schumer, Minority Leader Jeffries, and Honorable Members of the U.S. Congress:

**The undersigned 190 national, state, and local public health, criminal justice, and civil rights organizations write today to urge you to reject and vote NO on the Halt All Lethal Trafficking of Fentanyl (HALT) Act (H.R. 27 / S. 331). This bill permanently schedules fentanyl-**

related substances (FRS) on schedule I of the Controlled Substances Act (CSA) based on a flawed class definition, imposes mandatory minimums, and fails to provide an offramp for removing inert or harmless substances from the drug schedule.

The classwide scheduling approach endorsed in the HALT Fentanyl Act classifies all FRS as schedule I drugs, reserved for substances with no currently accepted medical use and a high potential for abuse. This class definition, however, is a radical departure from drug scheduling practices as it relies exclusively on chemical structure without accounting for pharmacological effect based on the unproven hypothesis of chemical structure-function relationships.<sup>1</sup> Contrary to this hypothesis, structurally related substances can often have complementary therapeutic values. In fact, the National Institute on Drug Abuse (NIDA) has already acknowledged that some FRS are inert and that at least one may be an opioid antagonist that behaves like naloxone, which is itself an opium derivative that counteracts the effects of opioid drugs.<sup>2</sup> Classifying all FRS in schedule I places undue restrictions on research for therapeutic potential of FRS. This means that researchers and scientists are not able to study these substances at a time when the U.S. is experiencing unprecedented overdose deaths.

The HALT Fentanyl Act also enshrines mandatory minimums for distribution of FRS under the Controlled Substances Act, an inappropriate mandate that criminalizes possibly inert or harmless substances. While some proponents of the HALT Fentanyl Act claim that the bill is not intended to interact with the criminal justice system and that mandatory minimums are primarily a deterrent against foreign import of FRS, this is simply inaccurate. The HALT Fentanyl Act expands mandatory minimums for both foreign importation crimes and domestic drug distribution offenses, including nonviolent drug distribution involving small quantities of drugs. What's more, by automatically scheduling a huge swathe of substances in one fell swoop, the HALT Fentanyl Act would lead to very real criminal justice consequences, posing an unacceptable risk of unnecessary incarceration for substances that carry no potential for abuse. Such miscarriages of justice have already occurred. For instance, Todd Coleman was sentenced to a mandatory minimum of 10 years for sale of cocaine that a crime laboratory said was laced with three fentanyl analogues, only to discover, years later, that the detected adulterants were not illegal fentanyl analogues and most were not even controlled substances.<sup>3</sup>

Our country is repeating past missteps when it comes to policy responses to fentanyl and its analogues. In the 1980s, policymakers enacted severe mandatory minimums for small amounts of crack cocaine in response to media headlines and law enforcement warnings that perpetuated mythology and fear. These laws imposed harsher penalties for crack—a substance associated with Black people—than for cocaine—a substance associated with white people—even though

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<sup>1</sup> Bamberger, Nathan D., et al. "Beyond Simple Structure–Function Relationships: The Interplay of Geometry, Electronic Structure, and Molecule/Electrode Coupling in Single-Molecule Junctions." *The Journal of Physical Chemistry C* 126.15 (2022): 6653-6661.

<sup>2</sup> NIDA. "The Overdose Crisis: Interagency Proposal to Combat Illicit Fentanyl-Related Substances." *National Institute on Drug Abuse*, 2 Dec. 2021.

<sup>3</sup> Schwartzapfel, Beth. "Biden Could Have Taken the War on Drugs Down a Notch. He Didn't." *The Marshall Project*, 16 June 2021.

the two substances are chemically similar. In the ensuing decades, people of color have been disproportionately incarcerated and sentenced to mandatory minimum sentences for small amounts of crack. This trend of racial disparity also can be seen in prosecutions for offenses involving fentanyl and fentanyl analogues, as Sentencing Commission data from fiscal years 2021 to 2023 provides strong evidence that these prosecutions disproportionately target people of color. Among the 8,048 people convicted in trafficking cases where fentanyl or fentanyl analogues were the primary drug type, Black and Hispanic individuals comprised 78% of all convictions (41% and 37%, respectively).<sup>4</sup> These percentages represent a massive disparity relative to demographic patterns in the general population. Moreover, the emergence of fentanyl-related substances in recent years has fueled similar waves of alarmist media and law enforcement headlines that are informed by mythology rather than science. Any further extension of the classwide scheduling policy threatens to repeat past missteps with crack cocaine that policymakers are still working to rectify.

The classwide scheduling policy expands the application of existing severe mandatory minimum sentencing laws enacted by Congress in the 1980s to a newly scheduled class of fentanyl-related compounds. For example, just a trace amount of a fentanyl analogue in a mixture with a combined weight of 10 grams—10 paper clips—can translate into a five-year mandatory minimum with no evidence needed that the seller even knew it contained fentanyl. In addition, current laws impose a statutory maximum sentence of 20 years for just a trace amount of a fentanyl analogue in a mixture with a combined weight of less than 10 grams.<sup>5</sup> The truth of the matter is that lawmakers do not need to impose new mandatory minimums in order to prosecute fentanyl analogue cases because law enforcement officials already have the ability to prosecute these cases pursuant to the Controlled Substance Analogue Enforcement Act of 1986, which requires that prosecutors show the substances in question are harmful.<sup>6</sup>

Despite the threat of grave injustices in the criminal legal system, the current lack of research on FRS, and indications that some FRS are harmless or hold therapeutic potential, the HALT Fentanyl Act does not include an off-ramp to reschedule or remove FRS that research has proven to be pharmacologically inactive or do not meet schedule I criteria. Though it includes some research reforms for schedule I substances, the bill excludes the possibility of such research impacting the criminalization of FRS. Without a rescheduling process, the HALT Fentanyl Act may unjustly promote criminalization of harmless or inert substances.

The HALT Fentanyl Act and other bills proposing the permanent classwide scheduling of FRS are yet another iteration of the drug war's ineffective and punitive strategies. To prevent overdose, Congress must invest in public health solutions to mitigate the harms of illicit fentanyl. We urge

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<sup>4</sup> The data used for this analysis were extracted from the U.S. Sentencing Commission's "Individual Datafiles" spanning fiscal years 2021 to 2023. The Commission's "Individual Datafiles" are publicly available for download on its website. U.S. Sent'g Comm'n, Commission Datafiles, <https://www.ussc.gov/research/datafiles/commission-datafiles>.

<sup>5</sup> See generally Brian T. Yeh, Cong. Research Serv., RL30722, Drug Offenses: Maximum Fines and Terms of Imprisonment for Violation of the Federal Controlled Substances Act and Related Laws (Jan. 20, 2015), <https://fas.org/sgp/crs/misc/RL30722.pdf>.

<sup>6</sup> U.S.C. section 813(a); see also *United States v. Requena*, 980 F.3d 30, 35 (2d Cir. 2020).

Congress to support bills that increase access to health services and substance use disorder treatment, improve data collection, and provide funding for FRS research, offering alternative, effective strategies to simultaneously address the opioid epidemic while preventing backsliding on criminal justice reform.

Thank you for your time and attention to this matter. Please contact Maritza Perez Medina, Director of Federal Affairs for the Drug Policy Alliance, at [mperez@drugpolicy.org](mailto:mperez@drugpolicy.org) for questions about this letter or to further discuss this matter.

Sincerely,

ACLU of Nevada (NV)  
ACR Health (NY)  
AIDS Alabama (AL)  
AIDS Foundation Chicago (IL)  
AIDS United  
Alianza for Opportunity  
Alliance for Positive Change (NY)  
Alliance for Positive Health (NY)  
American Civil Liberties Union  
American Friends Service Committee  
Appalachian Learning Initiative (WV)  
Association of Black Social Workers (Virginia Union University) (VA)  
Autistic Self Advocacy Network  
Battle Born Progress (NV)  
Beacon House Aftercare, Louisville (KY)  
Beauty After the Bars (NC)  
Bend the Arc: Jewish Action  
Better Organizing to Win Legalization  
BLM Louisville (KY)  
Brave Technology Co-Op  
Bronx Móvil (NY)  
C-UR Recovery Services, LLC (MI)  
Celebrate Recovery (KY)  
Center for Criminal Justice Reform, University of Baltimore (MD)  
Center for Disability Rights  
Center for Housing & Health (IL)  
Center for Popular Democracy  
Citizen Action of Wisconsin (WI)  
Clergy for a New Drug Policy  
Coalition on Human Needs  
Color of Change  
Communities United for Status & Protection (CUSP)

Community Catalyst  
Community Health Project Los Angeles (CA)  
Cosmovisiones Ancestrales (CA)  
CURE (Citizens United for Rehabilitation of Errants)  
Dream.org  
Drug Policy Alliance  
Drug Policy Forum of Hawai'i (HI)  
Due Process Institute  
E5 Enterprise (NY/PA)  
Elephant Circle (CO)  
EngageWell IPA (NY)  
Equal Justice USA  
Evergreen Health (NY)  
Exchanging Pathways (MS)  
Fair and Just Prosecution  
Faith in Harm Reduction  
Family Services Network of New York (NY)  
FAMM  
Federal Public & Community Defenders  
Feed Louisville (KY)  
Filling The Gaps Outreach, Inc. (GA)  
Florida Harm Reduction Collective (FL)  
Freedom BLOC (OH)  
Fruit of Labor Action Research & Technical Assistance, LLC (NC)  
Full Circle Youth Empowerment, Inc. (CT)  
FWD.us  
G. Williams & Associates, Inc. (IL)  
Giving Others Dreams G.O.D Inc (IL)  
GLIDE (CA)  
Hawai'i Health & Harm Reduction Center (HI)  
HEAL Ohio (OH)  
Hepatitis C Mentor and Support Group (HCMMSG) (NY)  
Hep Free Hawai'i (HI)  
Hey Joe Media (AZ)  
Hip Hop Caucus  
HIPS (DC)  
HomeRise (CA)  
Hoosier Action (IN)  
Housing Works (NY)  
Human Rights Watch  
Illinois Alliance for Reentry and Justice (IL)  
Illinois Harm Reduction & Recovery Coalition (IL)  
Immigrant Legal Resource Center  
Interfaith Action for Human Rights (IAHR) (DC) (MD) (VA)  
Indiana Recovery Alliance (IN)

IOAD NC Raleigh Memorial Event (NC)  
Isaiah House Inc (KY)  
Interfaith Action for Human Rights  
Justice Strategies  
JustLeadershipUSA  
Juvenile Law Center  
Lacey's Legacy (KY)  
LatinoJustice PRLDEF  
Law Enforcement Action Partnership  
Law Office of the Cook County Public Defender (IL)  
The Leadership Conference on Civil and Human Rights  
Legal Action Center  
Life Coach Each One Teach One Reentry Fellowship (KY)  
Lighthouse Consultants Colorado, LLC (CO)  
Local Progress  
Los Angeles Community Action Network (CA)  
Michigan People's Campaign (MI)  
Minorities for Medical Marijuana  
Mississippi Prison Reform Coalition (MS)  
Moms for All Paths to Recovery (CA)  
Monetwork (MO)  
My Brothers Keeper NEO (OH)  
My Meta ReEntry Services, Inc. (NC)  
NASTAD  
National Association of Criminal Defense Lawyers  
National Coalition for the Homeless  
National Council of Churches  
National Council on Alcoholism and Drug Dependence-Maryland Chapter (MD)  
National Employment Law Project  
National Harm Reduction Coalition  
National Health Law Program  
National Homelessness Law Center  
National Immigrant Justice Center  
National Immigration Project (NIPNLG)  
National Legal Aid & Defender Association  
National Organization for Women  
National Pain Advocacy Center (CO)  
NC Harm Reduction Coalition (NC)  
Nelsonville Voices/Showing Up for Racial Justice (OH)  
NETWORK Lobby for Catholic Social Justice  
New Jersey Organizing Project (NJ)  
New York State Harm Reduction Association (NY)  
NEXT Distro  
OhioCAN/Newark Homeless Outreach (OH)

On The Bright Side LLC (NC)  
ONE Northside (IL)  
Overdose Crisis Response Fund  
PA Stands Up (PA)  
Parabola Center for Law and Policy  
Parole Preparation Project  
Pennsylvania Harm Reduction Network (PA)  
People Advocating Recovery (KY)  
People's Action  
Progressive Leadership Alliance of Nevada (NV)  
Progressive Maryland (MD)  
Psychotherapy Services DBA (KY)  
QLatinx (FL)  
R Street Institute  
REACH-NEO (OH)  
Reentry Advocacy Project (TX)  
Reframe Health and Justice  
Renew A New, Inc (CA)  
Revolve Impact  
Rights & Democracy (NH/VT)  
River Valley Organizing (OH)  
Sana Healing Collective (IL)  
Smoky Mountain Harm Reduction (NC)  
Sojourners  
Source Corp LLC (OH)  
South Carolina For Restorative Justice (SC)  
South Louisville Community Ministries (KY)  
Southern Tier AIDS Program (NY)  
StoptheDrugWar.org  
Students for Sensible Drug Policy  
Sunita Jain Anti-Trafficking Policy Initiative, Loyola Law School  
T'ruah: The Rabbinic Call for Human Rights  
Tacoma Healing Awareness Community (WA)  
TakeAction Minnesota (MN)  
TCRC Community Healing Center (PA)  
Texas Harm Reduction Alliance (TX)  
The Action Lab, Center for Health Policy and Law, Northeastern University School of Law (MA)  
The Advocates for Human Rights (MN)  
The AIDS Institute (TAI)  
The Daniel Initiative  
The Festival Center  
The Freedom BLOC (OH)  
The Gathering for Justice  
The Georgia Survivor Defense Project (GA)

The Gubbio Project (CA)  
The Hepatitis C Mentor and Support Group (HCMSG) (NY)  
The Matrix Consulting, LLC  
The Porchlight Collective SAP (IL)  
The Sentencing Project  
The Steady Collective (NC)  
Transform Network  
Treatment Action Group (TAG) (NY)  
Treatment on Demand Coalition-SF (CA)  
Truth Pharm Inc. (NY)  
United Vision for Idaho (ID)  
Vera Institute of Justice  
Vilomah Foundation (PA)  
Vital Strategies  
Vivent Health  
VOCAL-KY (KY)  
VOCAL-NY (NY)  
VOCAL-WA (WA)  
VT Citizens United for the Rehabilitation of Errant(s) (VT)  
Washington Office on Latin America  
Why Not Prosper (PA)  
Wilkes Recovery Revolution, Inc. (NC)  
Women on the Rise (GA)  
Worth Rises  
Young People in Recovery