The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL:	CS/SB 1346
INTRODUCER:	Health Policy Committee and Senator Polsky
SUBJECT:	Fentanyl Testing
DATE:	March 31, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Fav/CS**
2.	Davis	Cibula	JU	**Pre-meeting**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1346 creates s. 395.1042, F.S., entitled "Gage's Law."[1] The bill requires a hospital or hospital-based off-campus emergency department to test a patient for fentanyl if the patient is receiving emergency services and care[2] for a possible drug overdose or poisoning and the hospital or stand-alone emergency department conducts a urine test to assist in diagnosing the individual. The bill specifies that if the urine test comes back positive for fentanyl, the hospital must perform a confirmation test as defined in s. 440.102(1), F.S.,[3] and maintain the results of the urine test and the screenings as part of the patient's clinical record.

The bill provides an effective date of July 1, 2025.

[1] Gage's Law is named after Gage Austin Taylor, an Orlando resident who died at 29 from an accidental fentanyl overdose on September 26, 2022. *See* Tina Scott Polsky, Rita Harris file 'Gage's Law' to mandate fentanyl tests in suspected overdose cases, (last visited March 27, 2025).

[2] Section 395.002(9), F.S., defines "emergency services and care" to mean medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition exists and, if it does, the care, treatment, or surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the service capability of the facility.

[3] Section 440.102, F.S., defines a "confirmation test" to mean a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen, which test must be different in scientific principle from that of the initial test procedure and must be capable of providing requisite specificity, sensitivity, and quantitative accuracy.

II. Present Situation:

Fentanyl

According to the U.S. Drug Enforcement Administration, fentanyl is a synthetic opioid often used to treat patients who have chronic severe pain or experience severe pain after surgery. Fentanyl is a Schedule II controlled substance that is similar to morphine but approximately 100 times more potent. When prescribed under the supervision of a licensed medical professional, fentanyl has a legitimate medical use. However, even patients who are prescribed fentanyl should be monitored for potential misuse or abuse of the drug.[4]

Illicit fentanyl is primarily manufactured in foreign, clandestine labs and smuggled into the country through Mexico. It is then distributed throughout the nation and sold on the illegal drug market. In order to increase its potency, fentanyl is mixed with other illicit drugs. It may be sold as powders and nasal sprays, but it is often pressed into pills that resemble legitimate prescription opioids. These counterfeit pills, which have no official oversight, often contain lethal doses of fentanyl.[5]

The risk is substantial that illegal drugs are intentionally contaminated with fentanyl. Because fentanyl is highly potent and relatively inexpensive, drug dealers mix fentanyl with other drugs including heroin, methamphetamine, and cocaine, which increases the likelihood of a fatal interaction.[6]

According to the Center for Disease Control, synthetic opioids like fentanyl are the primary cause of overdose deaths in the U.S.[7]

Toxicology Screening

Toxicology screenings have changed significantly over the years. Screening methods such as "gas chromatography and radioimmunoassays" have been replaced "in everyday use to enzyme-linked sorbent immunoassay (ELISA) and cloned enzyme donor immunoassay."[8] This shift is due in large measure to speed and ease of use. However, these new generation immunoassays have limitations in the area of reduced sensitivity and specificity. The calibration of these screenings "can detect specific substances rather than an entire class of drugs and also suffer from cross-reactivity to structurally similar compounds." Comprehensive drug screenings that use other methods tend to be cost-prohibitive and often can take weeks to supply a result, making them impractical for clinical use.[9]

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[4] Facts About Fentanyl, United States Drug Enforcement Administration, *available at* https://www.dea.gov/resources/facts-about-fentanyl (last visited March 27, 2025).
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] Pinaki Mukherji, Yusra Azhar, Sandeep Sharma, *Toxicology Screening*, National Library of Medicine, National Center for Biotechnology Information (Updated August 7, 2023), available from: https://www.ncbi.nlm.nih.gov/books/NBK499901/ (last visited March 27, 2025).
[9] *Id.*

Drug testing can be accomplished using urine, serum, breath, sweat, or saliva samples. Breath testing is used almost entirely to estimate alcohol concentrations, while urine and serum tests are still the most commonly used tests for medical professionals.[10]

Urine Testing

Illicit drugs that are abused present a common area of interest for screening and urine testing. These five drugs are commonly tested in the United States using a urine screening:

- Cocaine.
- Amphetamines.
- Marijuana.
- Phencyclidine (PCP).
- Opioids.[11]

"Many assays include benzodiazepines as well. In addition to issues with false positives or negatives of the test, the standard urine assay will not screen for some existing illicit drugs. The epidemiology of drug use has shifted over the past 10 years, and there is a higher prevalence of substances such as synthetic cannabinoid, MDMA (ecstasy), and chemical variants of opioids and PCP, which may not be detected by many urine screenings. Other drugs of misuse that are generally unscreened include ketamine, chloral hydrate, gamma-hydroxybutyrate (GHB), psilocybin, and "bath salts" (cathinones)."[12]

Most urine drug screenings do not provide quantitative testing, so a simple "positive" or "negative" result is given if the assay detects substrate.[13]

Serum Testing

Serum tests are used to screen for common, over-the-counter drugs which are often used for intentional overdoses. These serum "tests commonly obtain acetaminophen, aspirin, salicylates, and ethanol. Some extended serum screens include tricyclic antidepressants or barbiturates. Unlike urine screens, these tests are often quantitative and are useful in measuring blood concentrations. Concentrations require interpretation as to the reported times and amounts of ingestion, and often serial concentrations are necessary when the history is lacking or unreliable. While ethanol is detectable in the alcohol screen, other toxic alcohols like methanol, ethylene glycol, and isopropyl alcohol are not detectable."[14]

III. Effect of Proposed Changes:

CS/SB 1346 creates s. 395.1042, F.S., entitled "Gage's Law." The bill requires that any hospital or stand-alone emergency department include fentanyl when testing a patient's urine to assist in diagnosing a suspected overdose or poisoning and while providing emergency services and care.

[10] *Id.*
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] *Id.*

If the results are positive for fentanyl, the hospital is required to perform a confirmation test as defined in s. 440.102(1), F.S. The bill specifies that the results of the urine test as well as the screenings must be preserved in the patient's clinical record for the timeframe required by the hospital's or stand-alone emergency department's clinical recordkeeping practices.

The bill provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may require individuals or health insurers to incur additional costs for testing a patient for fentanyl.

C. Government Sector Impact:

The bill may require government run hospitals and insurers to incur additional costs for testing a patient for fentanyl.

VI. Technical Deficiencies:

None.

VII. Related Issues:

CS/SB 1346 requires hospital to conduct a confirmation test for fentanyl under certain circumstances but does not provide a hospital with an exception if the patient refuses the confirmation test and does not provide a timeframe for the test to be conducted. As such, it may be advisable to clarify in the bill under what time frame the confirmation test must be performed as well as the hospital's responsibility should a patient refuse the test.

It may also be advisable to provide the Agency for Health Care Administration (AHCA) with specific rulemaking authority to implement the new section of law in order to give AHCA flexibility to address issues with implementation of the new requirement.

VIII. Statutes Affected:

This bill creates section 395.1042 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 25, 2025:
The committee substitute removes the requirement for a hospital to perform "laboratory and toxicology screenings" should a patient's urine test positive for fentanyl and replaces it with the requirement to conduct a "confirmation test" as defined in s. 440.102(1), F.S.

B. Amendments:

None.