

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 90** HLS 23RS 112

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: April 4, 2023	9:31 AM	Author: STEFANSKI
Dept./Agy.: Corrections		
Subject: Distribution or Possession with Intent to Distribute Fentanyl		Analyst: Daniel Druilhet

DRUGS/CONTROLLED OR INCREASE GF EX See Note Page 1 of 1
Provides relative to penalties for distribution or possession with intent to distribute fentanyl or carfentanil

Current law imposes a penalty of imprisonment at hard labor for not less than five nor more than forty (40) years for a person who distributes or possesses with intent to distribute **any detectable amount** of fentanyl or its analogues or carfentanil. Current law makes optional a \$50,000 fine imposed on offenders.

Proposed law amends present law to delineate (based on aggregate weight) penalties assessed for distribution or possession with intent to distribute fentanyl or carfentanil. Proposed law amends present law to assess a penalty of imprisonment of no less than five nor more than forty (40) years at hard labor for a person who distributes or possesses with intent to distribute less than 28 grams of fentanyl or carfentanil and makes optional a fine of not more than \$50,000. Proposed law adds to present law a penalty of life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence for a person who distributes or possesses with intent to distribute 28 or more grams of fentanyl or carfentanil.

EXPENDITURES	2023-24	2024-25	2025-26	2026-27	2027-28	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						
REVENUES	2023-24	2024-25	2025-26	2026-27	2027-28	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Annual Total						

EXPENDITURE EXPLANATION

Proposed law will likely result in an indeterminable increase in SGF expenditures in the Department of Public Safety and Corrections – Corrections Services (DPSC – CS) if a person is convicted of distribution or possession with intent to distribute fentanyl and carfentanil. DPSC – CS reports that in 2022, there were 44 admissions with an average sentence length of 8.9 years and an expected serve time of 3.1 years. Proposed law would result in an increase of \$9,632 annually (\$26.39 daily per offender per day x 365 days) for each year beyond 3.1 years for offenders housed at local facilities or \$37,142.40 annually (\$101.76 per offender per day x 365 days) for offenders housed at state facilities.

The exact fiscal impact of the proposed law is indeterminable because offenders who distribute or possess with intent to distribute more than 28 or more grams of fentanyl or carfentanil are assessed a penalty of life imprisonment without benefit of parole, probation, or suspension of sentence. Without knowing the number of offenders who are convicted and ultimately sentenced, and the length of time that offenders who are assessed life sentences will live, the amount that will be expended in SGF is indeterminable.

REVENUE EXPLANATION

Proposed law will likely result in an indeterminable increase in local revenues as a result of potential fines imposed for conviction of distribution or possession with intent to distribute less than 28 grams of fentanyl or carfentanil. The fine assessed for offenders convicted of distribution or possession with intent to distribute less than 28 grams of fentanyl or carfentanil is a fine of not more than \$50,000. The fiscal impact on local revenue is indeterminable because there is no way to determine the exact fines that will be assessed or if it is assessed at all, in each instance in which an offender is convicted. The potential revenue will accrue to the local governing authority.

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Evan Brasseaux
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Interim Deputy Fiscal Officer