

2023 Regular Session

HOUSE BILL NO. 75

BY REPRESENTATIVES VILLIO, ADAMS, BACALA, EDMONSTON, GAROFALO,  
GOUDEAU, HODGES, HORTON, MCKNIGHT, SCHEXNAYDER, SEABAUGH,  
AND STEFANSKI AND SENATORS CATHEY AND HEWITT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

DRUGS/CONTROLLED: Provides relative to penalties for distribution or possession with  
intent to distribute fentanyl or carfentanil

1 AN ACT

2 To amend and reenact R.S. 14:2(B)(58) and R.S. 40:967(B)(4) and (E)(1), relative to the  
3 Uniform Controlled Dangerous Substances Law; to provide relative to penalties for  
4 distribution or possession with intent to distribute fentanyl or carfentanil; to provide  
5 for aggregate weights; to provide for enhanced penalties; to provide relative to  
6 treatment for fentanyl or carfentanil as a condition for probation; to provide relative  
7 to the distribution of fentanyl or carfentanil which causes serious bodily injury; and  
8 to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:967(B)(4) and (E)(1) are hereby amended and reenacted to read  
11 as follows:

12 §967. Prohibited acts - Schedule II; penalties

13 \* \* \*

14 B. Violations of Subsection A. Any person who violates Subsection A of  
15 this Section with respect to:

16 \* \* \*

17 (~~4~~)<sup>(a)</sup> Fentanyl or a mixture or substance containing a detectable amount of  
18 fentanyl or its analogues, or carfentanil or a mixture or substance containing a

1 detectable amount of carfentanil or its analogues, ~~upon conviction for any amount,~~  
2 shall be punished as follows:

3 (a) On conviction of an aggregate weight of less than twenty-eight grams,  
4 ~~shall be imprisoned~~ imprisonment at hard labor for not less than five years nor more  
5 than forty years, at least five years of which shall be served without benefit of parole,  
6 probation, or suspension of sentence, and may, in addition, be required to pay a fine  
7 of not more than fifty thousand dollars.

8 (b) On a first conviction of an aggregate weight of twenty-eight grams or  
9 more but less than two hundred fifty grams, imprisonment at hard labor for not less  
10 than seven years nor more than forty years, at least seven years of which shall be  
11 served without benefit of parole, probation, or suspension of sentence, and may, in  
12 addition, be required to pay a fine of not more than fifty thousand dollars.

13 (c) On a first conviction of an aggregate weight of two hundred fifty grams  
14 or more, imprisonment at hard labor for not less than ten years nor more than forty  
15 years, at least ten years of which shall be served without benefit of parole, probation,  
16 or suspension of sentence, and may, in addition, be required to pay a fine of not more  
17 than fifty thousand dollars.

18 (d) On a second conviction of an aggregate weight of twenty eight grams or  
19 more, imprisonment at hard labor for not less than thirty years nor more than forty  
20 years, at least ten years of which shall be served without benefit of parole, probation,  
21 or suspension of sentence, and may, in addition, be required to pay a fine of not more  
22 than five hundred thousand dollars.

23 (e) On a third conviction of an aggregate weight of twenty eight grams or  
24 more, imprisonment at hard labor for not less than ninety-nine years without benefit  
25 of parole, probation, or suspension of sentence, and may, in addition, be required to  
26 pay a fine of not more than five hundred thousand dollars.

27 ~~(b)~~ (f)(i) If the offender unlawfully distributes or dispenses fentanyl or a  
28 mixture or substance containing a detectable amount of fentanyl or its analogues, or  
29 carfentanil or a mixture or substance containing a detectable amount of carfentanil

1 or its analogues, which is the direct cause of serious bodily injury to the person who  
2 ingested or consumed the substance, the offense shall be classified as a crime of  
3 violence, and the offender shall be imprisoned at hard labor for not less than five  
4 years nor more than forty years. At least five years of the sentence of imprisonment  
5 shall be imposed without benefit of probation, parole, or suspension of sentence. In  
6 addition, the offender may be required to pay a fine of not more than fifty thousand  
7 dollars.

8 (ii) For purposes of this Subparagraph, "serious bodily injury" shall have the  
9 same meaning as provided by R.S. 14:2(C).

10 (iii) This Subsection shall be known and may be cited as "Millie's Law".

11 \* \* \*

12 E. Treatment for fentanyl or carfentanil addiction as a condition for  
13 probation.

14 (1) Upon conviction of Paragraph ~~(B)(4)~~ or (C)(4) of this Section, ~~possession~~  
15 ~~with intent to distribute fentanyl or carfentanil~~ or possession of fentanyl or  
16 carfentanil, the court may suspend any sentence which it imposes and place the  
17 defendant on probation pursuant to Article 893 of the Code of Criminal Procedure.  
18 The court may order the division of probation and parole of the Department of Public  
19 Safety and Corrections to conduct a presentence investigation, or may order the  
20 defendant to obtain a substance abuse evaluation, for the purpose of determining  
21 whether the defendant has a substance abuse disorder.

22 \* \* \*

23 Section 2. R.S. 14:2(B)(58) is hereby amended and reenacted to read as follows:

24 §2. Definitions

25 \* \* \*

26 B. In this Code, "crime of violence" means an offense that has, as an  
27 element, the use, attempted use, or threatened use of physical force against the  
28 person or property of another, and that, by its very nature, involves a substantial risk  
29 that physical force against the person or property of another may be used in the

1 course of committing the offense or an offense that involves the possession or use  
2 of a dangerous weapon. The following enumerated offenses and attempts to commit  
3 any of them are included as "crimes of violence":

4 \* \* \*

5 (58) Distribution of fentanyl or carfentanil punishable under R.S.  
6 40:967(B)(4)~~(b)~~(f).

7 \* \* \*

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 75 Engrossed

2023 Regular Session

Villio

**Abstract:** Increases the penalties for distribution or possession with intent to distribute fentanyl or carfentanil and provides for aggregate weights for the substance.

Present law provides that any person who produces, manufactures, distributes, or dispenses or possesses with the intent to produce, manufacture, distribute, or dispense fentanyl or carfentanil, upon conviction for any amount, shall be imprisoned at hard labor for not less than five years nor more than 40 years and may, in addition, be required to pay a fine of not more than \$50,000.

Proposed law provides that upon conviction of an aggregate weight of less than 28 grams, the offender shall be imprisoned at hard labor for not less than five years nor more than 40 years, at least five years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than \$50,000.

Proposed law provides that upon a first conviction of an aggregate weight of 28 grams or more but less than 250 grams, the offender shall be imprisoned at hard labor for not less than seven years nor more than 40 years, at least seven years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than \$50,000.

Proposed law provides that upon a first conviction of an aggregate weight of 250 grams or more, the offender shall be imprisoned at hard labor for not less than 10 years nor more than 40 years, at least 10 years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than \$50,000.

Proposed law provides that upon a second conviction of an aggregate weight of 28 grams or more, the offender shall be imprisoned at hard labor for not less than 30 years nor more than 40 years, at least 10 years of which shall be served without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than \$500,000.

Proposed law further provides that upon a third conviction of an aggregate weight of 28 grams or more, the offender shall be imprisoned at hard labor for not less than 99 years

without benefit of parole, probation, or suspension of sentence, and may, in addition, be required to pay a fine of not more than \$500,000.

Present law provides that if an offender unlawfully distributes fentanyl or carfentanil which is the direct cause of serious bodily injury to the person who ingested or consumed the substance, the offender shall be imprisoned at hard labor for not less than five years nor more than 40 years. At least five years of the sentence shall be served without benefit of probation, parole, or suspension of sentence. In addition, the offender may be required to pay a fine of not more than \$50,000.

Proposed law retains present law.

Present law authorizes the court to suspend any sentence imposed upon a defendant and place the defendant on probation upon conviction of possession with intent to distribute fentanyl or carfentanil or possession of fentanyl or carfentanil.

Proposed law removes the authority of the court to suspend any sentence imposed upon a defendant and place the defendant on probation upon conviction of possession with intent to distribute fentanyl or carfentanil.

Present law (R.S. 14:2(B)) provides for a list of certain enumerated present law offenses that are included as crimes of violence. Further provides that distribution of fentanyl or carfentanil that causes serious bodily injury is a crime of violence.

Proposed law retains present law and changes the citation reference of distribution of fentanyl or carfentanil that causes serious bodily injury.

(Amends R.S. 14:2(B)(58) and R.S. 40:967(B)(4) and (E)(1))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Relative to distribution of fentanyl or carfentanil which causes serious bodily injury, change the citation reference of such action in the present law list of crimes of violence.