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## DIGEST

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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.