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**SENATE COMMITTEE AMENDMENTS**

2023 Regular Session

Amendments proposed by Senate Committee on Judiciary C to Engrossed House Bill No. 90 by Representative Stefanski

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1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" delete "R.S. 40:967(B)(4)(a)" and insert "R.S. 14:2(B)(58)  
3 and R.S. 40:967(B)(4)"

4 AMENDMENT NO. 2

5 On page 1, line 4, after "carfentanil;" delete the remainder of the line and delete line 5 in its  
6 entirety and insert the following:

7 "to provide relative to penalties for distribution or possession with intent to distribute  
8 fentanyl or carfentanil; to provide for aggregate weights; to provide for enhanced  
9 penalties; to provide relative to the distribution of fentanyl or carfentanil which  
10 causes serious bodily injury;"

11 AMENDMENT NO. 3

12 On page 1, at the beginning of line 6, delete "more;"

13 AMENDMENT NO. 4

14 On page 1, line 9, delete "R.S. 40:967(B)(4)(a)" and insert "R.S. 40:967(B)(4)"

15 AMENDMENT NO. 5

16 On page 1, delete lines 16 through 19 and delete page 2 in its entirety and insert the  
17 following:

18 "~~(4)(a)~~ Fentanyl or a mixture or substance containing a detectable amount  
19 of fentanyl or its analogues, or carfentanil or a mixture or substance containing a  
20 detectable amount of carfentanil or its analogues, ~~upon conviction for any amount,~~  
21 shall be punished as follows:

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

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

32 (c) On a first conviction of an aggregate weight of two hundred fifty grams  
33 or more, life imprisonment at hard labor, at least twenty-five years of which shall be  
34 served without benefit of parole, probation, or suspension of sentence.

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

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

1                    ~~(b)~~ (f)(i) If the offender unlawfully distributes or dispenses fentanyl or a  
2 mixture or substance containing a detectable amount of fentanyl or its analogues, or  
3 carfentanil or a mixture or substance containing a detectable amount of carfentanil  
4 or its analogues, which is the direct cause of serious bodily injury to the person who  
5 ingested or consumed the substance, the offense shall be classified as a crime of  
6 violence, and the offender shall be imprisoned at hard labor for not less than five  
7 years nor more than forty years. At least five years of the sentence of imprisonment  
8 shall be imposed without benefit of probation, parole, or suspension of sentence. In  
9 addition, the offender may be required to pay a fine of not more than fifty thousand  
10 dollars.

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

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

14                    \*            \*            \*

15                    E. Treatment for fentanyl or carfentanil addiction as a condition for  
16 probation.

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

25                    \*            \*            \*

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

27                    §2. Definitions

28                    \*            \*            \*

29                    B. In this Code, "crime of violence" means an offense that has, as an  
30 element, the use, attempted use, or threatened use of physical force against the  
31 person or property of another, and that, by its very nature, involves a substantial risk  
32 that physical force against the person or property of another may be used in the  
33 course of committing the offense or an offense that involves the possession or use  
34 of a dangerous weapon. The following enumerated offenses and attempts to commit  
35 any of them are included as "crimes of violence":

36                    \*            \*            \*

37                    (58) Distribution of fentanyl or carfentanil punishable under R.S.  
38 40:967(B)(4)~~(b)~~(f).

39                    \*            \*            \*"