



**LEGISLATIVE FISCAL OFFICE  
Fiscal Note**

Fiscal Note On: **HB 90** HLS 23RS 112  
 Bill Text Version: **ENGROSSED**  
 Opp. Chamb. Action: **w/ SEN COMM AMD**  
 Proposed Amd.:  
 Sub. Bill For.:

<b>Date:</b> May 26, 2023	8:15 AM	<b>Author:</b> STEFANSKI
<b>Dept./Agy.:</b> Corrections		
<b>Subject:</b> Distribution or Possession with Intent to Distribute Fentanyl		<b>Analyst:</b> Daniel Druilhet

DRUGS/CONTROLLED EG1 INCREASE GF EX See Note Page 1 of 2  
 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 current law to delineate (based on aggregate weight and number of convictions) penalties of imprisonment assessed for distribution or possession with intent to distribute fentanyl or carfentanil (FOC) as follows - no less than 5 nor more than forty (40) years at hard labor (at least 5 without benefit of parole, probation, or suspension of sentence (PPS)) for an aggregate weight of less than 28 grams and an optional fine of \$50,000; on 1st conviction of an aggregate weight of more than 28 but less than 250 grams - no less than 7 nor more than 40 years, 7 without PPS and an optional fine of \$50,000; on 1st conviction of an aggregate weight of 250 or more grams - life imprisonment at hard labor, 25 years without PPS and an optional fine of \$50,000; on 2nd conviction of an aggregate weight of 28 or more grams, no less than 30 nor more than 40 years, 10 without PPS and an optional fine of \$50,000; on 3rd conviction of an aggregate weight of 28 or more grams, no less than 99 years without PPS and an optional fine of \$500,000. Proposed law reenacts La. R.S. 14:2(B)(58), which lists distribution of FOC as a crime of violence.

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	\$0	\$0	\$0	\$0	\$0	\$0
<b>Annual Total</b>						
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	
<b>Annual Total</b>						

**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.

Proposed law increases the time that an offender convicted of distribution or possession with intent to distribute fentanyl or carfentanil will serve before parole eligibility. Current law assesses a sentence of imprisonment of no less than five nor more than 40 years for an offender convicted of distribution or possession with intent to distribute carfentanil, and it is not currently listed as a crime of violence. By reenacting the provision that classifies distribution and possession with intent to distribute fentanyl or carfentanil as a crime of violence, offenders convicted would be required to serve at least 65% of the sentence being imposed before being eligible for parole. Proposed law also includes a provision requiring a mandatory number of years to be served prior to parole eligibility specific to the sentence imposed, notwithstanding parole provisions considered due to the nature of the offense being a crime of violence. In either case, there will be an increase in lengths of incarceration stays, which will result in an increase in SGF expenditures related to housing offenders.

The exact fiscal impact of proposed law is indeterminable because it is not known how many people will be convicted or the length of the sentences imposed for those who are convicted as a result of this change to current law.

**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 fentanyl or carfentanil. The fine assessed for offenders convicted of distribution or possession with intent to distribute fentanyl or carfentanil varies between \$50,000 and \$500,000 and are optional. The fiscal impact on local revenue is indeterminable because there is no way to determine the exact fines  
 Continued on Page 2

<p><u>Senate</u></p> <p><input type="checkbox"/> 13.5.1 &gt;= \$100,000 Annual Fiscal Cost {S &amp; H}</p> <p><input type="checkbox"/> 13.5.2 &gt;= \$500,000 Annual Tax or Fee Change {S &amp; H}</p>	<p><u>House</u></p> <p><input type="checkbox"/> 6.8(F)(1) &gt;= \$100,000 SGF Fiscal Cost {H &amp; S}</p> <p><input type="checkbox"/> 6.8(G) &gt;= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}</p>	<p><i>Evan Brasseaux</i></p> <hr/> <p><b>Evan Brasseaux</b> Interim Deputy Fiscal Officer</p>
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**CONTINUED EXPLANATION from page one:**

**[CONTINUED FROM PAGE 1 - REVENUES]**

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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**Evan Brasseaux**  
**Interim Deputy Fiscal Officer**