

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 90

2023 Regular Session

Stefanski

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

Synopsis of Senate Amendments

1. Removes proposed law penalty of life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence for distribution or possession with intent to distribute fentanyl or carfentanil of 28 grams or more.
2. Increases penalties for distribution or possession with intent to distribute fentanyl or carfentanil and provides for aggregate weights for the substance.
3. Provides for life imprisonment on a first conviction of an aggregate weight of 250 grams or more, at least 25 years of the sentence shall be served without benefit of parole, probation, or suspension of sentence.
4. Retains proposed law relative to the removal of 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.
5. Changes the citation reference of distribution of fentanyl or carfentanil which causes serious bodily injury in the present law list of crimes of violence.

Digest of Bill as Finally Passed by Senate

Present law (R.S. 40:967(B)(4)) 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 for life at hard labor, at least 25 years of which shall be served without benefit of parole, probation, or suspension of sentence.

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 designated 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))