



LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 75** HLS 23RS 430
 Bill Text Version: **ENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: April 26, 2023 9:22 AM	Author: VILLIO
Dept./Agy.: Corrections	Analyst: Daniel Druilhet
Subject: Penalties for Fentanyl and Carfentanil Distribution	

DRUGS/CONTROLLED EG 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 and proposed law make optional a \$50,000 fine imposed on offenders. Proposed law amends present law to delineate (based on aggregate weight and number of convictions) penalties of imprisonment for distribution or possession with intent to distribute fentanyl or carfentanil as follows: less than 28 grams - no less than 5 nor more than 40 years, 5 without parole, probation, or suspension of sentence (PPS); more than 28 but less than 250 grams - no less than 7 nor more than 40 years, on first conviction, 7 without PPS; more than 250 grams - no less than 10 nor more than 40 years, on first conviction, 10 without PPS; 28 or more grams, on second conviction - no less than 30 nor more than 40 years, 10 without PPS; 28 or more grams, on third conviction, no less than 99 years without PPS. Proposed law would include distribution, manufacture, dispensing, or possession with intent to distribute fentanyl or carfentanil as a crime of violence. Proposed law removes the authority of a court to suspend any sentence imposed on a defendant and place the defendant on probation upon a conviction of possession with intent to distribute fentanyl or carfentanil.

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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						
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.	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Annual Total						

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) to the extent that a person is convicted of distribution or possession with intent to distribute fentanyl and carfentanil. 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 will increase the average sentence length and expected serve time for all categories in which a sentence is required to be served without probation, parole, or suspension of sentence. Proposed law will also increase the duration of time inmates serve prior to parole eligibility for all offenses which proposed law provides for parole eligibility.

Proposed law increases the time that an offender convicted of distribution, manufacture, dispensing, 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. This will likely result in offenders spending more time in custody and increasing SGF expenditures for DPS & C – CS. The exact fiscal impact of the passage of this legislation is indeterminable, since it is not known how many people will be convicted or the length of sentences imposed on those who are convicted as a result of this change to present law.

Lengthening the average expected serve time will result in an increase in SGF expenditures of \$9,632 annually (\$26.39 daily per offender x 365 days) for each year beyond 3.1 years for offenders housed at local facilities or \$37,142.40 annually (\$101.76 daily per offender x 365 days) for offenders housed at state facilities. 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

There will be an indeterminable decrease in self-generated revenue to DPS&C – Probation and Parole to the extent any offender remains in custody longer, is not released on parole, or is required to serve a longer duration of imprisonment pursuant to proposed law. The current daily parole supervision rate for adult offenders is \$5.60 per day, which would result in an annual loss of \$2,044 (\$5.60 x 365) in parole supervision SGR for each adult offender.

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

Evan Brasseaux
 Interim Deputy Fiscal Officer



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CONTINUED EXPLANATION from page one:

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[CONTINUED FROM PAGE 1 - REVENUES]

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 from \$50,000 to \$500,000. The potential revenue will accrue to the local governing authority.

Senate Dual Referral Rules

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House

6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}

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