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DIGEST

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**CONFERENCE COMMITTEE REPORT DIGEST**

**HB 90**

**2023 Regular Session**

**Stefanski**

**Keyword and oneliner of the instrument as it left the House**

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

**Report adopts Senate amendments to:**

1. Make technical changes.

**Report rejects Senate amendments which would have:**

1. Increased penalties for distribution or possession with intent to distribute fentanyl or carfentanil and provided for aggregate weights of the substance relative to 28 grams, 28 grams or more, and 250 grams or more.

**Report amends the bill to:**

1. Increase penalties for distribution or possession with intent to distribute fentanyl or carfentanil.
2. Provide for aggregate weights and mandatory minimum sentences for distribution or possession with intent to distribute fentanyl or carfentanil.
3. Provide for life imprisonment on conviction of an aggregate weight of 250 grams or more, at least 25 years of which shall be served without benefit of parole, probation, or suspension of sentence.
4. Relative to distribution of fentanyl or carfentanil which causes serious bodily injury, provide for an additional imprisonment period of five years, which shall be served consecutively to the sentence imposed for distribution or possession with intent to distribute fentanyl or carfentanil.
5. Change 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 the bill as proposed by the Conference Committee**

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 second 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 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 but less than 250 grams, 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.

Proposed law provides that upon 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.

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 amends present law to provide that an offender who unlawfully distributes fentanyl or carfentanil which is the direct cause of serious bodily injury to the person who ingested or consumed the substance shall be imprisoned at hard labor for an additional period of five years without benefit of probation, parole, or suspension of sentence. Such additional imprisonment penalty shall be served consecutively to the sentence imposed for distribution or possession with

intent to distribute fentanyl or carfentanil.

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))