

2024 Regular Session

HOUSE BILL NO. 735

BY REPRESENTATIVE KERNER

CONTROLLED SUBSTANCES: Provides relative to penalties for distribution or possession with intent to distribute certain controlled dangerous substances

1 AN ACT

2 To amend and reenact R.S. 40:966(B)(3)(a) and (b)(i) and 967(B)(2)(a), (3), and (4) and to
3 enact R.S. 40:967(B)(5), relative to the Uniform Controlled Dangerous Substances
4 Law; to provide relative to penalties for distribution or possession with intent to
5 distribute heroin; to provide relative to the penalties for distribution of heroin which
6 causes serious bodily injury; to provide relative to penalties for distribution or
7 possession with intent to distribute amphetamine or methamphetamine; to provide
8 relative to penalties for distribution or possession with intent to distribute cocaine;
9 to provide relative to the penalties for distribution of fentanyl or carfentanil which
10 causes serious bodily injury; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 40:966(B)(3)(a) and (b)(i) and 967(B)(2)(a), (3), and (4) are hereby
13 amended and reenacted R.S. 40:967(B)(5) is hereby enacted to read as follows:

14 §966. Penalty for distribution or possession with intent to distribute narcotic drugs
15 listed in Schedule I; possession of marijuana, synthetic cannabinoids, and
16 heroin

17 * * *

18 B. Violations of Subsection A. Any person who violates Subsection A of
19 this Section with respect to:

20 * * *

1 (3)(a) A substance classified in Schedule I that is the narcotic drug heroin or
2 a mixture or substance containing a detectable amount of heroin or its analogues,
3 upon conviction for any amount, shall be imprisoned at hard labor for not less than
4 five years nor more than ~~forty years~~ the remainder of his natural life and may, in
5 addition, be required to pay a fine of not more than fifty thousand dollars.

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

15 * * *

16 §967. Prohibited acts - Schedule II; penalties

17 * * *

18 B. Violations of Subsection A. Any person who violates Subsection A of
19 this Section with respect to:

20 * * *

21 (2)(a) Production or manufacturing of amphetamine or methamphetamine
22 shall be sentenced to imprisonment at hard labor for not less than ten years nor more
23 than ~~thirty years~~ the remainder of his natural life, at least ten years of which shall be
24 served without benefit of parole, probation, or suspension of sentence, and in
25 addition may be sentenced to pay a fine of not more than five hundred thousand
26 dollars.

27 * * *

28 (3) Production or manufacturing of ~~cocaine or cocaine base or a mixture or~~
29 ~~substance containing cocaine or its analogues as provided in Schedule II(A)(4) of~~

1 ~~R.S. 40:964~~ or oxycodone as provided in Schedule II(A)(1)(p) of R.S. 40:964 or
2 methadone as provided in Schedule II(B)(15) of R.S. 40:964 shall be sentenced to
3 imprisonment at hard labor for not less than ten years nor more than thirty years, at
4 least ten years of which shall be served without benefit of parole, probation, or
5 suspension of sentence, and may be fined not more than five hundred thousand
6 dollars.

7 (4) Production or manufacturing of cocaine or cocaine base or a mixture or
8 substance containing cocaine or its analogues as provided in Schedule II(A)(4) of
9 R.S. 40:964 shall be sentenced to imprisonment at hard labor for not less than ten
10 years nor more than the remainder of his natural life, at least ten years of which shall
11 be served without benefit of parole, probation, or suspension of sentence, and may
12 be fined not more than five hundred thousand dollars.

13 (5) Fentanyl or a mixture or substance containing a detectable amount of
14 fentanyl or its analogues, or carfentanil or a mixture or substance containing a
15 detectable amount of carfentanil or its analogues, shall be punished as follows:

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

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

26 (c) On a second conviction of an aggregate weight of twenty eight grams or
27 more but less than two hundred fifty grams, imprisonment at hard labor for not less
28 than thirty years nor more than forty years, at least ten years of which shall be served

1 without benefit of parole, probation, or suspension of sentence, and may, in addition,
2 be required to pay a fine of not more than five hundred thousand dollars.

3 (d) On a third conviction of an aggregate weight of twenty eight grams or
4 more but less than two hundred fifty grams, imprisonment at hard labor for not less
5 than ninety-nine years without benefit of parole, probation, or suspension of
6 sentence, and may, in addition, be required to pay a fine of not more than five
7 hundred thousand dollars.

8 (e) On conviction of an aggregate weight of two hundred fifty grams or
9 more, life imprisonment at hard labor, at least twenty-five years of which shall be
10 served without benefit of parole, probation, or suspension of sentence.

11 (f)(i) If the offender unlawfully distributes or dispenses fentanyl or a mixture
12 or substance containing a detectable amount of fentanyl or its analogues, or
13 carfentanil or a mixture or substance containing a detectable amount of carfentanil
14 or its analogues, which is the direct cause of serious bodily injury to the person who
15 ingested or consumed the substance, the offense shall be classified as a crime of
16 violence, and the offender shall be imprisoned at hard labor for an additional period
17 of not less than five years nor more than the remainder of his natural life without
18 benefit of probation, parole, or suspension of sentence. The additional penalty
19 imposed pursuant to this Subparagraph shall be served consecutively to the sentence
20 imposed under this Paragraph.

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

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

24 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 735 Original

2024 Regular Session

Kerner

Abstract: Provides relative to penalties for distribution or possession with intent to distribute certain controlled dangerous substances.

Present law (R.S. 40:966) provides for the penalties for distribution or possession with intent to distribute narcotic drugs listed in Schedule I.

Proposed law retains present law generally.

Present law provides that any person who produces, manufactures, distributes, or dispenses, or possesses with the intent to produce, manufacture, distribute, or dispense heroin or a mixture or substance containing a detectable amount of heroin or its analogues, 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 dollars.

Proposed law increases the maximum penalty from 40 years to life imprisonment.

Present law provides that any person who unlawfully distributes or dispenses heroin or a mixture or substance containing a detectable amount of heroin or its analogues, which is the direct cause of serious bodily injury to the person who ingested or consumed the substance, the offense shall be classified as a crime of violence, and the offender shall be imprisoned at hard labor for not less than five years nor more than 40 years.

Proposed law increases the maximum penalty from 40 years to life imprisonment.

Present law (R.S. 40:967) provides for the penalties for distribution or possession with intent to distribute narcotic drugs listed in Schedule II.

Present law provides that any person who produces, manufactures, distributes, or dispenses, or possesses with the intent to produce, manufacture, distribute, or dispense amphetamine or methamphetamine shall be sentenced to imprisonment at hard labor for not less than 10 years nor more than 30 years, at least 10 years of which shall be served without benefit of parole, probation, or suspension of sentence, and in addition may be sentenced to pay a fine of not more than \$500,000.

Proposed law increases the maximum penalty from 30 years to life imprisonment.

Present law provides that any person who produces, manufactures, distributes, or dispenses, or possesses with the intent to produce, manufacture, distribute, or dispense cocaine or cocaine base or a mixture or substance containing cocaine or its analogues as provided in present law (Schedule II(A)(4) of R.S. 40:964) or oxycodone as provided in present law (Schedule II(A)(1)(p)) of R.S. 40:964) or methadone as provided in present law (Schedule II(B)(15) of R.S. 40:964) shall be sentenced to imprisonment at hard labor for not less than 10 years nor more than 30 years, at least 10 years of which shall be served without benefit of parole, probation, or suspension of sentence, and may be fined not more than \$500,000.

Proposed law removes cocaine or cocaine base or a mixture or substance containing cocaine or its analogues from this prevision of present law.

Proposed law provides that any person who produces, manufactures, distributes, or dispenses, or possesses with the intent to produce, manufacture, distribute, or dispense cocaine or cocaine base or a mixture or substance containing cocaine or its analogues as provided in present law (Schedule II(A)(4) of R.S. 40:964) shall be sentenced to imprisonment at hard labor for not less than 10 years nor more than the remainder of his natural life, at least 10 years of which shall be served without benefit of parole, probation, or suspension of sentence, and may be fined not more than \$500,000.

Present law provides for penalties for any person who produces, manufactures, distributes, or dispenses, or possesses with the intent to produce, manufacture, distribute, or dispense fentanyl or a mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues.

Proposed law retains present law generally.

Present law provides that if the offender unlawfully distributes or dispenses fentanyl or a mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues, which is the direct cause of serious bodily injury to the person who ingested or consumed the substance, the offense shall be classified as a crime of violence, and the offender shall be imprisoned at hard labor for an additional period of five years without benefit of probation, parole, or suspension of sentence.

Proposed law changes the penalty to provide for a minimum of five years and a maximum of life imprisonment.

(Amends R.S. 40:966(B)(3)(a) and (b)(i) and 967(B)(2)(a), (3), and (4); Adds R.S. 40:967(B)(5))