

2022 Regular Session

HOUSE BILL NO. 844

BY REPRESENTATIVE ADAMS

CONTROLLED SUBSTANCES: Provides relative to penalties for distribution or possession with intent to distribute heroin and fentanyl and carfentanil

1 AN ACT

2 To amend and reenact R.S. 40:966(B)(3) and (G) and 967(B)(4) and (E)(1), relative to the
3 Uniform Controlled Dangerous Substances Law; to provide relative to penalties for
4 distribution or possession with intent to distribute heroin; to provide relative to
5 penalties for distribution or possession with intent to distribute fentanyl and
6 carfentanil; to increase the minimum term of imprisonment; to provide relative to
7 penalties when substantial assistance is provided; to provide relative to treatment for
8 heroin and fentanyl or carfentanil as a condition of probation; to provide for an
9 effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 40:966(B)(3) and (G) and 967(B)(4) and (E)(1) are hereby amended
12 and reenacted to read as follows:

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

16 * * *

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

19 * * *

1 (3) A substance classified in Schedule I that is the narcotic drug heroin or a
2 mixture or substance containing a detectable amount of heroin or its analogues, upon
3 conviction for any amount, shall be imprisoned at hard labor for not less than ~~five~~
4 ten years nor more than forty years and may, in addition, be required to pay a fine
5 of not more than fifty thousand dollars. However, in the event the state determines
6 the defendant has provided substantial assistance to the state or a law enforcement
7 agency in connection with the investigation or enforcement of the provisions of the
8 Uniform Controlled Dangerous Substances Law or the provisions of the Controlled
9 Substances Act of 1970 as amended (21 U.S.C. 801 et seq.), the state or district
10 attorney may, prior to imposition of sentence, file in the court record of the
11 proceeding a Notice of Providing Substantial Assistance or a motion stating that the
12 defendant has provided substantial assistance as described in this Paragraph. If the
13 state or district attorney files a Notice of Providing Substantial Assistance or motion
14 stating the defendant has provided substantial assistance, the court shall make a
15 determination or finding on the court record of the proceeding stating whether the
16 defendant has provided such substantial assistance. If the court determines the
17 defendant has provided substantial assistance, the court may impose a sentence of
18 imprisonment at hard labor for not less than five years nor more than twenty years,
19 and in addition may require the defendant to pay a fine of not more than twenty
20 thousand dollars. Any sentence imposed pursuant to this Paragraph shall be served
21 without the benefit of parole, probation, or suspension of sentence.

* * *

23 G. Treatment for heroin addiction as a condition for probation. (1) Upon
24 conviction of Paragraph ~~(B)(3)~~ or (C)(4) of this Section, ~~possession with intent to~~
25 ~~distribute heroin~~ or possession of heroin, the court may suspend any sentence which
26 it imposes and place the defendant on probation pursuant to Code of Criminal
27 Procedure Article 893. The court may order the division of probation and parole of
28 the Department of Public Safety and Corrections to conduct a presentence

1 investigation, or may order the defendant to obtain a substance abuse evaluation, for
2 the purpose of determining whether the defendant has a substance abuse disorder.

3 * * *

4 §967. Prohibited acts--Schedule II, penalties

5 * * *

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

8 * * *

9 (4) Fentanyl or a mixture or substance containing a detectable amount of
10 fentanyl or its analogues, or carfentanil or a mixture or substance containing a
11 detectable amount of carfentanil or its analogues, upon conviction for any amount,
12 shall be imprisoned at hard labor for not less than ~~five~~ ten years nor more than forty
13 years and may, in addition, be required to pay a fine of not more than fifty thousand
14 dollars. However, in the event the state determines the defendant has provided
15 substantial assistance to the state or a law enforcement agency in connection with the
16 investigation or enforcement of the provisions of the Uniform Controlled Dangerous
17 Substances Law or the provisions of the Controlled Substances Act of 1970 as
18 amended (21 U.S.C. 801 et seq.), the state or district attorney may, prior to
19 imposition of sentence, file in the court record of the proceeding a Notice of
20 Providing Substantial Assistance or a motion stating that the defendant has provided
21 substantial assistance as described in this Paragraph. If the state or district attorney
22 files a Notice of Providing Substantial Assistance or motion stating the defendant has
23 provided substantial assistance, the court shall make a determination or finding on
24 the court record of the proceeding stating whether the defendant has provided such
25 substantial assistance. If the court determines the defendant has provided substantial
26 assistance, the court may impose a sentence of imprisonment at hard labor for not
27 less than five years nor more than twenty years, and in addition may require the
28 defendant to pay a fine of not more than twenty thousand dollars. Any sentence

1 imposed pursuant to this Paragraph shall be served without the benefit of parole,
2 probation, or suspension of sentence.

3 * * *

4 E. Treatment for fentanyl or carfentanil addiction as a condition for
5 probation.

6 (1) Upon conviction of Paragraph ~~(B)(4)~~ or (C)(4) of this Section, ~~possession~~
7 ~~with intent to distribute fentanyl or carfentanil or~~ possession of fentanyl or
8 carfentanil, the court may suspend any sentence which it imposes and place the
9 defendant on probation pursuant to Article 893 of the Code of Criminal Procedure.
10 The court may order the division of probation and parole of the Department of Public
11 Safety and Corrections to conduct a presentence investigation, or may order the
12 defendant to obtain a substance abuse evaluation, for the purpose of determining
13 whether the defendant has a substance abuse disorder.

14 * * *

15 Section 2. This Act shall become effective upon signature by the governor or, if not
16 signed by the governor, upon expiration of the time for bills to become law without signature
17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
19 effective on the day following such approval.

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 844 Engrossed 2022 Regular Session Adams

Abstract: Increases the minimum term of imprisonment for distribution or possession with intent to distribute heroin and fentanyl and carfentanil, and provides relative to the penalty for a defendant who provides substantial assistance.

Present law (R.S. 40:966(B)(3) and 967(B)(4)) provides that any person who distributes or possesses with intent to distribute a mixture or substance containing a detectable amount of heroin or its analogues and fentanyl or its analogues and carfentanil 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.

Proposed law increases the minimum term of imprisonment from five years to 10 years.

Proposed law further provides that in the event the state determines the defendant has provided substantial assistance to the state or a law enforcement agency in connection with the investigation or enforcement of the provisions of present law or the provisions of the Controlled Substances Act of 1970 (21 U.S.C. 801 et seq.), the state or district attorney may, prior to imposition of sentence, file in the court record of the proceeding a Notice of Providing Substantial Assistance or a motion stating that the defendant has provided substantial assistance. If the court determines the defendant has provided substantial assistance, the court may impose a sentence of imprisonment at hard labor for not less than five years nor more than 20 years, and in addition may require the defendant to pay a fine of not more than \$20,000.

Proposed law further provides that any sentence imposed shall be served without the benefit of parole, probation, or suspension of sentence.

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 heroin or possession of heroin, 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 heroin and possession with intent to distribute fentanyl or carfentanil.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:966(B)(3) and (G) and 967(B)(4) and (E)(1))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Provide that any sentence imposed for distribution or possession with intent to distribute heroin and fentanyl and carfentanil shall be served without the benefit of parole, probation, or suspension of sentence.