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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Abrams and Swearingen

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SUMMARY

Participating in an organization or operation for trafficking in persons

- Creates the offense of participating in an organization or operation for trafficking in persons.
- Provides that the penalty for participating in an organization or operation for trafficking in persons is a first degree felony.

Drug offense changes

- Increases the penalties and changes the quantities required for trafficking cocaine, fentanyl-related compounds, heroin, and methamphetamine.
- Removes the knowledge requirement for possession of a fentanyl-related compound when the other drug involved is not marijuana.
- Requires that all death certificates include a space to indicate whether the cause of death was due to fentanyl poisoning.

DETAILED ANALYSIS

Participating in an organization or operation for trafficking in persons

The bill prohibits a person from doing any of the following:¹

¹¹ R.C. 2905.321(A) to (D).

- Knowingly organizing, managing, directing, supervising, coordinating, facilitating, leading, assisting, participating in, or financing an organization for trafficking in persons or an operation that furthers the criminal objectives of an organization or operation for trafficking in persons.
- Knowingly furnishing advice or direction in the conduct, financing, or management of an organization or operation for trafficking in persons' affairs with the intent to promote or further the criminal objectives of that organization or operation for trafficking in persons.
- Knowingly directing or instructing others to engage in violence or intimidation to promote or further the criminal objectives of an organization or operation for trafficking in persons.
- Intentionally promoting or furthering the criminal objectives of an organization or operation for trafficking in persons for a public servant to commit any act or omission in violation of the public servant's official duty, or to induce a public servant to commit the act or omission.
- Knowingly assisting an organization or operation for the trafficking in persons by transporting a person, or procuring transportation for a person, with the intent to either conceal the person from a peace officer or to assist the person in fleeing from a peace officer who is attempting to lawfully arrest or detain the person.

A person who violates any of the prohibitions listed above is guilty of participating in an organization or operation for trafficking in persons, a first degree felony.²

A prosecution for participating in an organization or operation for trafficking in persons does not preclude a prosecution of a violation of any other Revised Code section. One or more acts, a series of acts, or a course of behavior that can be prosecuted under R.C. 2905.321 or any other Revised Code section may be prosecuted under R.C. 2905.321, the other Revised Code section, or both sections.³

If an offender is convicted of or pleads guilty to a felony violation of participating in an organization or operation for trafficking in persons and also is convicted of or pleads guilty to an existing specification (furtherance of human trafficking), the court must impose as a minimum prison term a mandatory term of not less than five years and not greater than 11 years.⁴

Drug offense changes

The table below summarizes the increases to drug trafficking penalties and the changes in amount of each drug required for the different offense levels in the bill.

² R.C. 2905.321(E).

³ R.C. 2905.321(F).

⁴ R.C. 2929.14(B)(7)(a) and 2941.1422(A).

Drug trafficking – R.C. 2925.03						
Drug	Amount (existing law)	Penalty	Penalty if in vicinity of school , juvenile, or substance addiction services provider or recovering addict	Amount (H.B. 230 IN)	Penalty	Penalty if in vicinity of school, juvenile, or substance addiction services provider or recovering addict
Cocaine ⁵	< 5g	F5	F4	< 5g	F5	F4
	>= 5g – < 10g	F4	F3	>= 5g – < 10g	F4	F3
	>= 10g – < 20g	F3	F2	>= 10g – < 20g	F2	F1
	>= 10g – < 20g, plus 2 or more prior felony drug abuse offenses	F3	F3	>= 10g – < 20g, plus 2 or more prior felony drug abuse offenses	F2	F2
	>= 20g – < 27g	F2	F1	>= 20g – < 100g	F1	F1
	>= 27g – < 100g	F1	F1			
	>= 100g	F1 (MDO)	F1 (MDO)	>= 100g	F1 (MDO)	F1 (MDO)

⁵ R.C. 2925.03(C)(4).

Drug trafficking – R.C. 2925.03						
Drug	Amount (existing law)	Penalty	Penalty if in vicinity of school, juvenile, or substance addiction services provider or recovering addict	Amount (H.B. 230 IN)	Penalty	Penalty if in vicinity of school, juvenile, or substance addiction services provider or recovering addict
Fentanyl-related compound ⁶	< 1g; <10 UD	F5	F4	< 1g; <10 UD	F2	F1
	>= 1g – < 5g; >= 10 UD – < 50 UD	F4	F3	>= 1g – < 5g; >= 10 UD – < 50 UD	F1	F1
	>= 5g – <10g; >= 50 UD – < 100 UD	F3	F2	>= 5g – <10g; >= 50 UD – < 100 UD	F1	F1
	>= 10g – < 20g; >= 100 UD – < 200 UD	F2	F1	>= 10g – < 50g; >= 100 UD – < 500 UD	F1	F1
	>= 20g – < 50g; >= 200 UD – < 500 UD	F1	F1			
	>= 50g – < 100g; >= 500 UD – < 1000 UD	F1	F1	>= 50g – < 100g; >= 500 UD – < 1000 UD	F1	F1
	>= 100g; >= 1000 UD	F1 (MDO)	F1 (MDO)	>= 100g; >= 1000 UD	F1 (MDO)	F1 (MDO)

⁶ R.C. 2925.03(C)(9).

Drug trafficking – R.C. 2925.03						
Drug	Amount (existing law)	Penalty	Penalty if in vicinity of school, juvenile, or substance addiction services provider or recovering addict	Amount (H.B. 230 IN)	Penalty	Penalty if in vicinity of school, juvenile, or substance addiction services provider or recovering addict
Heroin ⁷	< 1g; <10 UD	F5	F4	< 1g; <10 UD	F5	F4
	>= 1g – < 5g; >= 10 UD – < 50 UD	F4	F3	>= 1g – < 5g; >= 10 UD – < 50 UD	F2	F1
	>= 5g – <10g; >= 50 UD – < 100 UD	F3	F2	>= 5g – <10g; >= 50 UD – < 100 UD	F1	F1
	>= 10g – < 50g; >= 100 UD – < 500 UD	F2	F1	>= 10g – <100g; >= 100 UD – < 1000 UD	F1	F1
	>= 50g – < 100g; >= 500 UD – < 1000 UD	F1	F1			
	>= 100g; >= 1000 UD	F1 (MDO)	F1 (MDO)	>= 100g; >= 1000 UD	F1 (MDO)	F1 (MDO)

⁷ R.C. 2925.03(C)(6).

Drug trafficking – R.C. 2925.03						
Drug	Amount (existing law)	Penalty	Penalty if in vicinity of school , juvenile, or substance addiction services provider or recovering addict	Amount (H.B. 230 IN)	Penalty	Penalty if in vicinity of school, juvenile, or substance addiction services provider or recovering addict
Methamphetamine ⁸	< 3g	F4	F3	< 3g	F4	F3
	>= 3g – < 15g	F3	F2	>= 3g – < 10g	F3	F2
	>= 15g – < 150g	F2	F1	>= 10g – < 20g	F2	F1
	>= 150g – < 300g	F1	F1	>= 20g – < 100g	F1	F1
	>= 300g	F1 (MDO)	F1 (MDO)	>= 100g	F1 (MDO)	F1 (MDO)

⁸ Under existing law, methamphetamine is considered a Schedule II controlled substance (R.C. 2925.03(C)(1)), but under the bill the penalties for trafficking in methamphetamine are located at R.C. 2925.03(C)(11).

Current law prohibits possession of a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any Schedule III, Schedule IV, or Schedule V controlled substance that is not a fentanyl-related compound if one of the following applies:⁹

- If the offender does not know or has no reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound the offender is guilty of possession of drugs, and the penalties range from a first degree misdemeanor for a first offense to the maximum prison term as a mandatory prison term for a second degree felony.
- If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound the offender is guilty of possession of a fentanyl-related compound, and the penalties range from a fifth degree felony to the maximum prison term as a mandatory prison term for a first degree felony.

The bill removes the knowledge requirement stated above, and instead applies the penalties for possession of a fentanyl-related compound to both instances, except that if the drug involved is a combination of a fentanyl-related compound and marijuana and the offender did not know or have reason to know, then the offender will not be charged with, convicted of, or punished for possession of a fentanyl-related compound.¹⁰

Death certificate requirement

Under the bill, all death certificates are required to include a space in the medical certification portion of the certificate to indicate whether the cause of death was due to fentanyl poisoning. The death certificate must include the term fentanyl poisoning if both of the following apply:¹¹

- A toxicology examination reveals fentanyl or a fentanyl-related compound was present in the body of the decedent in an amount of concentration that is considered to be lethal by generally accepted scientific standards.
- The results of an autopsy performed on the decedent are consistent with an opioid overdose as the cause of death.

Fentanyl or fentanyl-related compound specification

If an offender is convicted of or pleads guilty to involuntary manslaughter and is also convicted of or pleads guilty to the specification that fentanyl or a fentanyl-related compound was present in the body of the decedent in an amount of concentration that is considered to be

⁹ R.C. 2925.11(C)(10).

¹⁰ R.C. 2925.11(C)(9)(a) and (10).

¹¹ R.C. 3705.08(D).

lethal by generally accepted scientific standards and that the results of an autopsy performed on the decedent are consistent with an opioid overdose as the cause of death, then in addition to any other penalty imposed the court must impose a mandatory prison term of five years.¹²

Definitions

The bill removes from the definition of “bulk amount” of a controlled substance any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V if the defendant is charged with possession of that drug and the sentencing provisions for possession of fentanyl or a fentanyl-related compound do not apply regarding the defendant and violation.¹³

HISTORY

Action	Date
Introduced	06-27-23

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¹² R.C. 2929.14(B)(11)(b) and 2941.1427.

¹³ R.C. 2905.01(D)(6).