

## **HB 355 – Trafficking in Fentanyl (Identical SB 354)**

This bill amends s. 893.135, F.S., increasing the mandatory minimums for “trafficking in dangerous fentanyl or fentanyl analogues” as follows:

- between 4-14 grams – increased from a 7 year mandatory minimum to a 15 year mandatory minimum
- between 14-28 grams – increased from a 20 year mandatory minimum to a 25 year mandatory minimum
- 28 grams or more – increased from a 25 year mandatory minimum to a 30 year mandatory minimum

Per DOC, there were 19 new commitments to prison for fentanyl trafficking violations in FY 18-19, and there were 35 new commitments in FY 19-20. There were 63 new commitments in FY 20-21, and there were 169 new commitments in FY 21-22.

Fentanyl trafficking has seen several changes to statute since 2017, when it was given its own mandatory minimums for specific weight thresholds and separated from other general drug trafficking offenses. In 2022, the mandatory minimums were increased from 3 years to 7 years for between 4-14 grams, and from 15 years to 20 years for between 14-28 grams. Considering FY 21-22 data, 7.2% of those with trafficking offenses between 4-14 grams received a sentence below the mandatory minimum of 3 years, 81.3% of those with trafficking offenses between 14-28 grams received a sentence below the mandatory minimum of 15 years, and 71.4% of those with trafficking offenses for 28 grams or more received a sentence below the mandatory minimum of 25 years. Since the current changes to mandatory minimums went into effect on October 1, 2022, there have been 3 new commitments to prison with offenses committed after that date. All of these offenders committed fentanyl trafficking between 4-14 grams, and all were at or above the newly created mandatory minimum of 7 years. While trafficking offenses between 4-14 grams represent the bulk of new commitments (139 of the 169 in FY 21-22), and also the smallest percent of sentences below the mandatory minimum (7.2%), it is not known how the recent increase to 7 years might change that, or how a further increase to 15 years would impact future sentencing. However, the prior mandatory minimum of 15 years for between 14-28 grams did have 81.3% of sentences below the mandatory minimum.

Given the available information, it is not known how sentencing practices will change with the increased mandatory minimums included in this bill, but courts do tend to sentence below current mandatory minimums, especially at higher thresholds. Therefore, the impact of this new language on the prison population cannot be quantified.

**CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate**

**Requested by: Senate**