

BILL ANALYSIS

H.B. 513
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Overdoses and deaths caused by fentanyl have skyrocketed in Texas. Currently, there is no standalone offense for someone who distributes a drug that causes a person to die or suffer serious bodily injury. Under current law, those who manufacture or deliver such a substance are held accountable on the basis of the weight of the substance. This can be problematic as only trace amounts of the substance typically remain, which ties the hands of officials investigating and prosecuting these substance-related crimes. H.B. 513 seeks to address this issue by creating a standalone offense for the manufacture or delivery of a controlled substance that causes death or serious bodily injury, which will enable law enforcement and district attorneys to hold offenders accountable.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 513 amends the Health and Safety Code to create an offense for a person who knowingly manufactures or delivers a controlled substance in violation of the Texas Controlled Substances Act and a person dies or suffers serious bodily injury as a result of injecting, ingesting, inhaling, or introducing into the person's body any amount of the controlled substance manufactured or delivered by the actor, regardless of whether the controlled substance was used by itself or with another substance, including a drug, adulterant, or dilutant. The bill removes a penalty enhancement based on that conduct for the following state jail, third degree, and second degree felony offenses that is conditioned on a determination beyond a reasonable doubt that the person died or suffered serious bodily injury as a result of administering the controlled substance into their body:

- manufacture or delivery of a substance in Penalty Group 1, 1-A, 1-B, 2, 2-A, 3, or 4; and
- delivery of a controlled substance or marihuana to a child.

H.B. 513 establishes that the penalty for the offense created by the bill is a third degree felony if the commission of the offense resulted in serious bodily injury to a person and a second degree felony if the commission of the offense resulted in a person's death. The bill establishes as a defense to prosecution for the offense that the actor's conduct in manufacturing or delivering the controlled substance was authorized under the act or other state or federal law. The bill prohibits a convicting court from ordering a sentence for the offense to run concurrently with any other

sentence the court imposes on the defendant. If conduct constituting the offense also constitutes another Penal Code offense, the actor may be prosecuted for either offense or both offenses.

H.B. 513 enhances from a second degree felony to a first degree felony the penalty for the delivery of a controlled substance or marihuana to a child if it is shown at the trial of the offense that the person to whom the actor delivered the controlled substance or marihuana died or suffered serious bodily injury as a result of injecting, ingesting, inhaling, or introducing into the person's body any amount of the controlled substance or marihuana manufactured or delivered by the actor, regardless of whether the controlled substance or marihuana was used by itself or with another substance, including a drug, adulterant, or dilutant.

H.B. 513 applies only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

EFFECTIVE DATE

September 1, 2023.