

Senate Bill 79

By: Senators Goodman of the 8th, Strickland of the 42nd, Kennedy of the 18th, Tillery of the 19th, Gooch of the 51st and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses, so as to revise threshold amounts of fentanyl and related substances necessary to
3 constitute the offenses of possessing, selling, distributing, and manufacturing of such
4 substances; to provide for increased penalties for such offenses; to revise threshold amounts
5 of fentanyl and related substances necessary to constitute the offense of trafficking in
6 fentanyl; to provide for increased penalties for such offense; to revise mandatory minimum
7 departure provisions for defendants convicted of trafficking of substances in violation of
8 Code Section 16-13-31, relating to trafficking in cocaine, illegal drugs, marijuana, or
9 methamphetamine and penalties; to amend various titles of the Official Code of Georgia
10 Annotated, so as to provide for conforming changes; to provide for an effective date; to
11 provide for applicability; to provide for related matters; to provide for a short title; to repeal
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
SECTION 1-1.

This Act shall be known and may be cited as the "Fentanyl Eradication and Removal Act."

SECTION 1-2.

Said title is further amended in Code Section 16-13-31, relating to trafficking in cocaine, illegal drugs, marijuana, or methamphetamine and penalties, by revising subsections (b), (g), and (i) and by adding a new subsection to read as follows:

"(b) Except as authorized by this article, any person who sells, manufactures, delivers, brings into this state, or has possession of four grams or more of any morphine, opium, or substance identified in subparagraph (RR) or (SS) of paragraph (1) or paragraph ~~(13)~~, (14), or (15) of Code Section 16-13-25, or subparagraph (A), (C.5), ~~(F)~~, (U.1), (V), or (V.2) of paragraph (2) of Code Section 16-13-26 or any salt, isomer, or salt of an isomer thereof, including heroin, as described in Schedules I and II, or four grams or more of any mixture containing any such substance in violation of this article commits the felony offense of trafficking in illegal drugs and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of such substances involved is four grams or more, but less than 14 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of five years and shall pay a fine of \$50,000.00;

(2) If the quantity of such substances involved is 14 grams or more, but less than 28 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$100,000.00; and

(3) If the quantity of such substances involved is 28 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$500,000.00.

(b.1) Except as authorized by this article, any person who sells, manufactures, delivers, brings into this state, or has possession of fentanyl as identified in subparagraph (F) of paragraph (2) of Code Section 16-13-26, the fentanyl analog structural class as identified in paragraph (13) of Code Section 16-13-25, or any mixture containing any such substance in violation of this article commits the felony offense of trafficking in fentanyl and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of such substances involved is four grams or more, but less than eight grams, the person shall be sentenced to a mandatory minimum term of imprisonment of ten years and shall pay a fine of \$75,000.00;

(2) If the quantity of such substances involved is eight grams or more, but less than 14 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall pay a fine of \$150,000.00;

(3) If the quantity of such substances involved is 14 grams or more, but less than 28 grams, the person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall pay a fine of \$250,000.00; and

(4) If the quantity of such substances involved is 28 grams or more, the person shall be sentenced to a mandatory minimum term of imprisonment of 35 years and shall pay a fine of \$750,000.00."

"(g)(1) The district attorney may move the sentencing court to impose a reduced or suspended sentence upon any person who is convicted of a violation of this Code section who provides substantial assistance in the identification, arrest, or conviction of any of his or her accomplices, accessories, coconspirators, or principals. Upon good cause shown, the motion may be filed and heard in camera. ~~The judge hearing the motion~~ Upon hearing such motion, the sentencing court may impose a reduced or suspended sentence if ~~he or she~~ such court finds that the defendant has rendered such substantial assistance.

(2)(A) ~~In the court's discretion, the judge may~~ The sentencing court may, in its discretion, depart from the mandatory minimum sentence specified for a person who

is convicted of a violation of this Code section as set forth in subparagraph (B) of this paragraph if ~~the judge~~ such court concludes that:

- (i) The defendant was not a leader of the criminal conduct;
- (ii) The defendant did not possess or use a firearm, dangerous weapon, or hazardous object during the crime;
- (iii) The criminal conduct did not result in a death or serious bodily injury to a person other than to a person who is a party to the crime;
- (iv) The defendant has no prior felony conviction; and
- (v) The interests of justice will not be served by the imposition of the prescribed mandatory minimum sentence.

(B) The sentencing departure ranges pursuant to subparagraph (A) of this paragraph shall be as follows:

- ~~(i) Any person convicted of violating paragraph (1) of subsection (b) or (d) of this Code section, two years and six months to five years imprisonment and a fine of not less than \$25,000.00 nor more than \$50,000.00;~~
- ~~(ii) Any person convicted of violating paragraph (1) of subsection (c) of this Code section, two years and six months to five years imprisonment and a fine of not less than \$50,000.00 nor more than \$100,000.00;~~
- ~~(iii) Any person convicted of violating paragraph (2) of subsection (c) of this Code section, three years and six months to seven years imprisonment and a fine of not less than \$125,000.00 nor more than \$250,000.00;~~
- ~~(iv) Any person convicted of violating subparagraph (a)(1)(A), paragraph (2) of subsection (a), relating to the quantity of drugs specified in subparagraph (a)(1)(A) of this Code section, or paragraph (1) of subsection (e) or (f) of this Code section, five to ten years imprisonment and a fine of not less than \$100,000.00 nor more than \$200,000.00;~~

91 ~~(v) Any person convicted of violating paragraph (2) of subsection (b) of this Code~~
92 ~~section, five to ten years imprisonment and a fine of not less than \$50,000.00 nor~~
93 ~~more than \$100,000.00;~~

94 ~~(vi) Any person convicted of violating subparagraph (a)(1)(B), paragraph (2) of~~
95 ~~subsection (a), relating to the quantity of drugs specified in subparagraph (a)(1)(B)~~
96 ~~of this Code section, or paragraph (2) of subsection (e) or (f) of this Code section,~~
97 ~~seven years and six months to 15 years imprisonment and a fine of not less than~~
98 ~~\$150,000.00 nor more than \$300,000.00;~~

99 ~~(vii) Any person convicted of violating paragraph (3) of subsection (c) of this Code~~
100 ~~section, seven years and six months to 15 years imprisonment and a fine of not less~~
101 ~~than \$500,000.00 nor more than \$1 million;~~

102 ~~(viii) Any person convicted of violating paragraph (2) of subsection (d) of this Code~~
103 ~~section, seven years and six months to 15 years imprisonment and a fine of not less~~
104 ~~than \$125,000.00 nor more than \$250,000.00;~~

105 ~~(ix) Any person convicted of violating paragraph (3) of subsection (b) of this Code~~
106 ~~section, 12 years and six months to 25 years imprisonment and a fine of not less than~~
107 ~~\$250,000.00 nor more than \$500,000.00; and~~

108 ~~(x) Any person convicted of violating subparagraph (a)(1)(C), paragraph (2) of~~
109 ~~subsection (a), relating to the quantity of drugs specified in subparagraph (a)(1)(C)~~
110 ~~of this Code section, or paragraph (3) of subsection (e) or (f) of this Code section, 12~~
111 ~~years and six months to 25 years imprisonment and a fine of not less than~~
112 ~~\$500,000.00 nor more than \$1 million.~~

113 (i) Any person convicted of violating subparagraph (a)(1)(A), paragraph (2) of
114 subsection (a) relating to the quantity of drugs specified in subparagraph (a)(1)(A) of
115 this Code section, or paragraph (1) of subsection (e) or (f) of this Code section,
116 imprisonment for not less than five nor more than ten years and a fine of not less
117 than \$100,000.00 nor more than \$200,000.00;

(ii) Any person convicted of violating subparagraph (a)(1)(B), paragraph (2) of subsection (a) relating to the quantity of drugs specified in subparagraph (a)(1)(B) of this Code section, or paragraph (2) of subsection (e) or (f) of this Code section, imprisonment for not less than seven years and six months nor more than 15 years and a fine of not less than \$150,000.00 nor more than \$300,000.00;

(iii) Any person convicted of violating subparagraph (a)(1)(C), paragraph (2) of subsection (a) relating to the quantity of drugs specified in subparagraph (a)(1)(C) of this Code section, or paragraph (3) of subsection (e) or (f) of this Code section, imprisonment for not less than 12 years and six months nor more than 25 years and a fine of not less than \$500,000.00 nor more than \$1 million;

(iv) Any person convicted of violating paragraph (1) of subsection (b) or (d) of this Code section, imprisonment for not less than two years and six months nor more than five years and a fine of not less than \$25,000.00 nor more than \$50,000.00;

(v) Any person convicted of violating paragraph (2) of subsection (b) of this Code section, imprisonment for not less than five years nor more than ten years and a fine of not less than \$50,000.00 nor more than \$100,000.00;

(vi) Any person convicted of violating paragraph (3) of subsection (b) of this Code section, imprisonment for not less than 12 years and six months nor more than 25 years and a fine of not less than \$250,000.00 nor more than \$500,000.00;

(vii) Any person convicted of violating paragraph (1) of subsection (b.1) of this Code section, imprisonment for not less than two years and six months nor more than five years and a fine of not less than \$12,500.00 nor more than \$25,000.00;

(viii) Any person convicted of violating paragraph (2) of subsection (b.1) of this Code section, imprisonment for not less than five years nor more than ten years and a fine of not less than \$25,000.00 nor more than \$50,000.00;

(ix) Any person convicted of violating paragraph (3) of subsection (b.1) of this Code section, imprisonment for not less than ten years nor more than 20 years and a fine of not less than \$50,000.00 nor more than \$100,000.00;

(x) Any person convicted of violating paragraph (4) of subsection (b.1) of this Code section, imprisonment for not less than 15 years nor more than 30 years and a fine of not less than \$250,000.00 nor more than \$500,000.00;

(xi) Any person convicted of violating paragraph (1) of subsection (c) of this Code section, imprisonment for not less than two years and six months nor more than five years and a fine of not less than \$50,000.00 nor more than \$100,000.00;

(xii) Any person convicted of violating paragraph (2) of subsection (c) of this Code section, imprisonment for not less than three years and six months nor more than seven years and a fine of not less than \$125,000.00 nor more than \$250,000.00;

(xiii) Any person convicted of violating paragraph (3) of subsection (c) of this Code section, imprisonment for not less than seven years and six months nor more than 15 years and a fine of not less than \$500,000.00 nor more than \$1 million; and

(xiv) Any person convicted of violating paragraph (2) of subsection (d) of this Code section, imprisonment for not less than seven years and six months nor more than 15 years and a fine of not less than \$125,000.00 nor more than \$250,000.00.

(C) ~~If a judge reduces the sentencing court~~ departs from the mandatory minimum sentence pursuant to this paragraph, ~~the judge~~ such court shall specify on the record the circumstances for ~~the reduction~~ such departure and the interests served by such departure. Any such order shall be appealable by the State of Georgia pursuant to Code Section 5-7-1.

(D) As used in this paragraph, the term:

(i) 'Dangerous weapon' shall have the same meaning as set forth in Code Section 16-11-121.

(ii) 'Firearm' shall have the same meaning as set forth in Code Section ~~16-11-127.1~~
16-11-131.

(iii) 'Hazardous object' shall have the same meaning as set forth in Code
Section 20-2-751.

(iv) 'Leader' means a person who planned and organized others and acted as a guiding
force in order to achieve a common goal.

(3) ~~In the court's discretion, the judge may~~ The sentencing court may, in its discretion,
depart from the mandatory minimum sentence specified in this Code section for a person
who is convicted of a violation of this Code section when the prosecuting attorney and
the defendant have agreed to a sentence that is below such mandatory minimum."

~~"(i) Notwithstanding Code Section 16-13-2, any~~ Except as provided in subsection (g) of
this Code section and notwithstanding the provisions of Code Section 16-13-2 to the
contrary, with respect to any person who is found to have violated this Code section, no
portion of the mandatory minimum sentence shall be suspended, stayed, probated, deferred,
or otherwise withheld by the sentencing court. Any sentence imposed pursuant to
subsection (g) of this Code section shall not be reduced by any earned time, early release,
work release, leave, or other sentence-reducing measures under programs administered by
the Department of Corrections, the effect of which would be to reduce the period of
incarceration ordered by the sentencing court or any form of pardon, parole, or
commutation of sentence by the State Board of Pardons and Paroles; provided, however,
that during the final year of incarceration, a defendant so sentenced shall be eligible to be
considered for participation in a Department of Corrections administered transitional center
or work release program."

PART II**SECTION 2-1.**

Code Section 4-8-27 of the Official Code of Georgia Annotated, relating to certificates of registration for dog ownership, requirements for issuance of certificate, individuals excluded from receiving registration, limitation of ownership, and annual renewal, is amended by revising paragraph (3) of subsection (f) as follows:

"(3) A felony involving trafficking in ~~cocaine, illegal drugs, marijuana, methamphetamine, or ecstasy as provided for in~~ of substances in violation of Code Sections 16-13-31 and 16-13-31.1."

SECTION 2-2.

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended in Code Section 16-11-106, relating to possession of firearm or knife during commission of or attempt to commit certain crimes, by revising paragraph (5) of subsection (b) as follows:

"(5) Any crime involving the trafficking of ~~cocaine, marijuana, or illegal drugs as provided in~~ substances in violation of Code Section 16-13-31,"

SECTION 2-3.

Said title is further amended in Code Section 16-11-133, relating to minimum periods of confinement for persons convicted who have prior convictions, by revising paragraph (5) of subsection (b) as follows:

"(5) Any crime involving the trafficking of ~~cocaine, marijuana, or illegal drugs as provided in~~ substances in violation of Code Section 16-13-31,"

SECTION 2-4.

Said title is further amended in Code Section 16-11-160, relating to use of machine guns, sawed-off rifles, sawed-off shotguns, or firearms with silencers during commission of certain offenses and enhanced criminal penalties, by revising division (a)(2)(B)(iii) as follows:

"(iii) ~~Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine as provided in~~ of substances in violation of Code Section 16-13-31."

SECTION 2-5.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended in Code Section 17-6-1, relating to when offenses bailable, procedure, schedule of bails, and appeal bonds, by revising subsection (g) as follows:

"(g) No appeal bond shall be granted to any person who has been convicted of murder, rape, aggravated sodomy, armed robbery, home invasion in any degree, aggravated child molestation, child molestation, kidnapping, ~~trafficking in cocaine or marijuana of~~ substances in violation of Code Section 16-13-31, aggravated stalking, or aircraft hijacking and who has been sentenced to serve a period of incarceration of five years or more. The granting of an appeal bond to a person who has been convicted of any other felony offense or of any misdemeanor offense involving an act of family violence as defined in Code Section 19-13-1, or of any offense delineated as a high and aggravated misdemeanor or of any offense set forth in Code Section 40-6-391, shall be in the discretion of the convicting court. Appeal bonds shall terminate when the right of appeal terminates, and such bonds shall not be effective as to any petition for review or petition or application for writ of certiorari unless the court in which the petition for review or petition or application is filed so specifies."

SECTION 2-6.

Said title is further amended in Code Section 17-6-12, relating to unsecured judicial release, requirement, effect of failure of person charged to appear for trial, and consideration of criminal record, by revising subparagraph (a)(1)(U) as follows:

"(U) ~~Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine of~~
substances in violation of Code Section 16-13-31;"

SECTION 2-7.

Said title is further amended in Code Section 17-10-9.1, relating to voluntary surrender to county jail or correctional institution and release of defendant, by revising paragraph (9) of subsection (a) as follows:

"(9) Trafficking of substances in violation of ~~Violating~~ Code Section 16-13-31, ~~relating~~
~~to trafficking in cocaine or marijuana;~~"

SECTION 2-8.

Article 2 of Chapter 9 of Title 42 of the Official Code of Georgia Annotated, relating to grants of pardons, paroles, and other relief, is amended in Code Section 42-9-42, relating to procedure for granting relief from sentence, conditions and prerequisites, public access to information, and violation of parole, by revising division (b)(1)(B)(xxix) as follows:

"(xxix) ~~Trafficking in cocaine, illegal drugs, marijuana, or methamphetamine of~~
substances in violation of Code Section 16-13-31;"

SECTION 2-9.

Said article is further amended in Code Section 42-9-45, relating to general rule-making power, by revising subsection (f) as follows:

"(f) Except to correct a patent miscarriage of justice and not otherwise, no inmate serving a sentence imposed for any of the crimes listed in this subsection shall be granted release

on parole until and unless said inmate has served on good behavior seven years of imprisonment or one-third of the prison term imposed by the sentencing court for the violent crime, whichever first occurs. No inmate serving a sentence for any crime listed in this subsection shall be released on parole for the purpose of regulating jail or prison populations. This subsection shall govern parole actions in sentences imposed for any of the following crimes: voluntary manslaughter, statutory rape, incest, cruelty to children, arson in the first degree, homicide by vehicle while under the influence of alcohol or as a habitual traffic violator, aggravated battery, aggravated assault, ~~trafficking in drugs of~~ substances in violation of Code Section 16-13-31 or 16-13-31.1, and violations of Chapter 14 of Title 16, the 'Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act.'

SECTION 2-10.

Said article is further amended in Code Section 42-9-60, relating to overcrowding of prison system as creating state of emergency, paroling inmates to reduce prison system population to capacity, and annual report of inmates paroled, by revising paragraph (2) of subsection (a) as follows:

"(2) 'Dangerous offender' means a state prison inmate who is imprisoned for conviction of any one or more of the following crimes as defined by Title 16, the 'Criminal Code of Georgia': murder, voluntary manslaughter, kidnapping, armed robbery, rape, aircraft hijacking, aggravated sodomy, aggravated battery, aggravated assault, incest, child molestation, child abuse, ~~or~~ enticing a child for indecent purposes, or any felony ~~punishable under Code Section 16-13-31, relating to prohibited acts regarding marijuana, cocaine, and illegal drugs. The term 'dangerous offender'~~ violation of trafficking of substances in violation of Code Section 16-13-31. Such term shall also include an inmate who is incarcerated for a second or subsequent time for the commission of a crime for which the inmate could have been sentenced to life imprisonment."

SECTION 2-11.

Code Section 45-12-37 of the Official Code of Georgia Annotated, relating to reward for information leading to arrest and conviction of person selling dangerous or narcotic drugs generally and rewards by counties and municipalities, is amended by revising subsection (b) as follows:

"(b) Any person, other than a law enforcement officer, who furnishes information leading to the arrest and conviction of a person who is charged with selling dangerous drugs in violation of Code Section 16-13-72 may receive a reward of up to \$500.00. Any person, other than a law enforcement officer, who furnishes information leading to the arrest and conviction of a person who is charged with selling a controlled substance in violation of Code Section 16-13-30 or trafficking of substances in violation of Code Section 16-13-31, may receive a reward of \$1,000.00."

PART III**SECTION 3-1.**

This Act shall become effective on July 1, 2025, and shall apply to all offenses committed on or after such date.

SECTION 3-2.

All laws and parts of laws in conflict with this Act are repealed.