

House Bill 1189

By: Representatives Powell of the 29<sup>th</sup>, Purcell of the 159<sup>th</sup>, and Benton of the 31<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 1 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia  
2 Annotated, relating to schedules, offenses, and penalties applicable to the regulation of  
3 controlled substances, so as to establish drug-free church zones, to prohibit the manufacture,  
4 distribution, or possession with intent to distribute of a controlled substance or marijuana at  
5 or near any real property which has been established as a church or public place of worship;  
6 to establish drug-free rehabilitation zones; to prohibit the manufacture, distribution, or  
7 possession with intent to distribute of a controlled substance or marijuana at or near any real  
8 property which has been established as a rehabilitation center; to provide for penalties; to  
9 provide for related matters; to provide for an effective date and applicability; to repeal  
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Part 1 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated,  
14 relating to schedules, offenses, and penalties applicable to the regulation of controlled  
15 substances, is amended by adding a new Code section to read as follows:

16 "16-13-32.7.

17 (a) For purposes of this Code section, the term:

18 (1) 'Church or public place of worship' means a facility dedicated to providing for the  
19 exercise of religious practices and worship ceremonies and which is open to members of  
20 the public.

21 (2) 'Rehabilitation center' means a professional or business facility, whether for profit or  
22 not for profit, providing for, or purporting to provide for, the diagnosis, treatment, or  
23 rehabilitation of persons with drug or alcohol addictions and which offer clinical health  
24 services, mental health services, counseling, group support services, or other forms of  
25 treatment for persons suffering from drug and alcohol abuse.

26 (b) It shall be unlawful for any person to manufacture, distribute, dispense, or possess with  
27 intent to distribute a controlled substance or marijuana or a counterfeit substance in, on, or  
28 within 1,000 feet of any real property which has been established as a church or public  
29 place of worship, unless the manufacture, distribution, or dispensing is otherwise allowed  
30 by law.

31 (c) It shall be unlawful for any person to manufacture, distribute, dispense, or possess with  
32 intent to distribute a controlled substance or marijuana or a counterfeit substance in, on, or  
33 within 1,000 feet of any real property which has been established as a rehabilitation center,  
34 unless the manufacture, distribution, or dispensing is otherwise allowed by law.

35 (d) Any person who violates or conspires to violate subsection (b) or (c) of this Code  
36 section shall be guilty of a felony and upon conviction shall receive the following  
37 punishment:

38 (1) Upon a first conviction, imprisonment for not more than five years or a fine of not  
39 more than \$10,000.00, or both; or

40 (2) Upon a second or subsequent conviction, imprisonment for not less than five years  
41 nor more than 20 years or a fine of not more than \$20,000.00, or both. It shall be  
42 mandatory for the court to impose a minimum sentence of five years which may not be  
43 suspended unless otherwise provided by law.

44 A sentence imposed under this Code section shall be served consecutively to any other  
45 sentence imposed.

46 (e) A conviction arising under this Code section shall not merge with a conviction arising  
47 under any other provision of this article.

48 (f) In a prosecution under this Code section, a map produced or reproduced by any  
49 municipal or county agency or department for the purpose of depicting the location and  
50 boundaries of the area on or within 1,000 feet of the real property of any established  
51 church, public place of worship, or rehabilitation center, or a true copy of the map, shall,  
52 if certified as a true copy by the custodian of the record, be admissible and shall constitute  
53 prima-facie evidence of the location and boundaries of the area, if the governing body of  
54 the municipality or county has approved the map as an official record of the location and  
55 boundaries of the area. This subsection shall not preclude the prosecution from introducing  
56 or relying upon any other evidence or testimony to establish any element of this offense.  
57 This subsection shall not preclude the use or admissibility of a map or diagram other than  
58 the one which has been approved by the municipality or county.

59 (g) The governing authority of a municipality or county may adopt regulations authorizing  
60 the posting of signs designating the areas within 1,000 feet of any lands or buildings set  
61 apart for use as a church or public place of worship as 'Drug-free Church Zones' and

62 designating the areas within 1,000 feet of the real property of any church or public place  
63 of worship as 'Drug-free Church Zones.'

64 (h) The governing authority of a municipality or county may adopt regulations requiring  
65 the posting of signs designating the areas within 1,000 feet of any lands or buildings set  
66 apart for use as a rehabilitation center as 'Drug-free Rehabilitation Zones' and designating  
67 the areas within 1,000 feet of the real property of any rehabilitation center as 'Drug-free  
68 Rehabilitation Zones.'

69 (i) It is an affirmative defense to prosecution for a violation of this Code section that the  
70 prohibited conduct took place entirely within a private residence, that no person 17 years  
71 of age or younger was present in such private residence at any time during the commission  
72 of the offense, and that the prohibited conduct was not carried on for purposes of financial  
73 gain. Nothing in this subsection shall be construed to establish an affirmative defense with  
74 respect to any offense under this chapter other than the offense provided for in subsections  
75 (b) and (c) of this Code section."

76 **SECTION 2.**

77 This Act shall become effective on July 1, 2012, and shall apply to offenses committed or  
78 after such date.

79 **SECTION 3.**

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