

The House Committee on Judiciary, Non-Civil offers the following substitute to SB 79:

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.**

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

**SECTION 1-2.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 77 ~~(i) Any person convicted of violating paragraph (1) of subsection (b) or (d) of this~~  
78 ~~Code section, two years and six months to five years imprisonment and a fine of not~~  
79 ~~less than \$25,000.00 nor more than \$50,000.00;~~
- 80 ~~(ii) Any person convicted of violating paragraph (1) of subsection (c) of this Code~~  
81 ~~section, two years and six months to five years imprisonment and a fine of not less~~  
82 ~~than \$50,000.00 nor more than \$100,000.00;~~
- 83 ~~(iii) Any person convicted of violating paragraph (2) of subsection (c) of this Code~~  
84 ~~section, three years and six months to seven years imprisonment and a fine of not less~~  
85 ~~than \$125,000.00 nor more than \$250,000.00;~~
- 86 ~~(iv) Any person convicted of violating subparagraph (a)(1)(A), paragraph (2) of~~  
87 ~~subsection (a), relating to the quantity of drugs specified in subparagraph (a)(1)(A)~~  
88 ~~of this Code section, or paragraph (1) of subsection (e) or (f) of this Code section, five~~  
89 ~~to ten years imprisonment and a fine of not less than \$100,000.00 nor more than~~  
90 ~~\$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;

- 118 (ii) Any person convicted of violating subparagraph (a)(1)(B), paragraph (2) of  
119 subsection (a) relating to the quantity of drugs specified in subparagraph (a)(1)(B) of  
120 this Code section, or paragraph (2) of subsection (e) or (f) of this Code section,  
121 imprisonment for not less than seven years and six months nor more than 15 years and  
122 a fine of not less than \$150,000.00 nor more than \$300,000.00;
- 123 (iii) Any person convicted of violating subparagraph (a)(1)(C), paragraph (2) of  
124 subsection (a) relating to the quantity of drugs specified in subparagraph (a)(1)(C) of  
125 this Code section, or paragraph (3) of subsection (e) or (f) of this Code section,  
126 imprisonment for not less than 12 years and six months nor more than 25 years and  
127 a fine of not less than \$500,000.00 nor more than \$1 million;
- 128 (iv) Any person convicted of violating paragraph (1) of subsection (b) or (d) of this  
129 Code section, imprisonment for not less than two years and six months nor more than  
130 five years and a fine of not less than \$25,000.00 nor more than \$50,000.00;
- 131 (v) Any person convicted of violating paragraph (2) of subsection (b) of this Code  
132 section, imprisonment for not less than five years nor more than ten years and a fine  
133 of not less than \$50,000.00 nor more than \$100,000.00;
- 134 (vi) Any person convicted of violating paragraph (3) of subsection (b) of this Code  
135 section, imprisonment for not less than 12 years and six months nor more than 25  
136 years and a fine of not less than \$250,000.00 nor more than \$500,000.00;
- 137 (vii) Any person convicted of violating paragraph (1) of subsection (b.1) of this Code  
138 section, imprisonment for not less than two years and six months nor more than five  
139 years and a fine of not less than \$12,500.00 nor more than \$25,000.00;
- 140 (viii) Any person convicted of violating paragraph (2) of subsection (b.1) of this  
141 Code section, imprisonment for not less than five years nor more than ten years and  
142 a fine of not less than \$25,000.00 nor more than \$50,000.00;

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

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

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

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

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

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

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

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

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

169 (ii) 'Firearm' shall have the same meaning as set forth in Code Section ~~16-11-127.1~~  
170 16-11-131.

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

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

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

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

**PART II****SECTION 2-1.**

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

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

**SECTION 2-2.**

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

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

**SECTION 2-3.**

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

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

214 **SECTION 2-4.**

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

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

220 **SECTION 2-5.**

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

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

237 **SECTION 2-6.**

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

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

243 **SECTION 2-7.**

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

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

249 **SECTION 2-8.**

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

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

256 **SECTION 2-9.**

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

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

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

272 **SECTION 2-10.**

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

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

287 **SECTION 2-11.**

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

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

299 **PART III**

300 **SECTION 3-1.**

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

303 **SECTION 3-2.**

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