

House Bill 197

By: Representatives McCollum of the 30th, Powell of the 33rd, Wiedower of the 121st, Erwin of the 32nd, Gaines of the 120th, and others

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 provide for the offense of drug-induced homicide; to provide for enhanced
3 penalties for the distribution of certain controlled substances; to provide for enhanced
4 penalties for the distribution of controlled substances within 1,000 feet of any substance
5 abuse treatment facility; to provide a short title; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as "Wesley's Law."

10 **SECTION 2.**

11 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
12 amended in Code Section 16-5-1, relating to murder, malice murder, felony murder, and
13 murder in the second degree, by revising subsections (d) and (e) as follows:

14 "(d)(1) A person commits the offense of murder when, in the commission of a violation
15 of subsection (b) or (c) of Code Section 16-13-30, he or she causes the death of another

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16 human being, irrespective of malice or intent, by manufacturing or distributing any
17 controlled substance that also contains the Schedule II controlled substance fentanyl as
18 provided in subparagraph (F) of paragraph (2) of Code Section 16-13-26.

19 (2) Where the accused is charged with the offense of murder based upon the distribution
20 of a controlled substance, lack of knowledge that the controlled substance contained
21 fentanyl shall not be a defense.

22 (e) A person commits the offense of murder in the second degree when, in the commission
23 of cruelty to children in the second degree, he or she causes the death of another human
24 being irrespective of malice.

25 ~~(e)~~(f)(1) A person convicted of the offense of murder shall be punished by death, by
26 imprisonment for life without parole, or by imprisonment for life.

27 (2) A person convicted of the offense of murder in the second degree shall be punished
28 by imprisonment for not less than ten nor more than 30 years."

29 **SECTION 3.**

30 Said title is further amended in Code Section 16-13-30, relating to purchase, possession,
31 manufacture, distribution, or sale of controlled substances or marijuana and penalties, by
32 adding a new subsection to read as follows:

33 "(e.1)(1) Any person who violates subsection (a) of this Code section with respect to the
34 Schedule II controlled substance fentanyl as provided in subparagraph (F) of
35 paragraph (2) of Code Section 16-13-26 shall be guilty of a felony and, upon conviction
36 thereof, shall be punished as follows:

37 (A) If the aggregate weight, including any mixture, is 4 grams or more, but less than
38 14 grams, such person shall be sentenced to a minimum term of imprisonment for not
39 less than seven nor more than ten years and shall pay a fine up to \$50,000.00;

40 (B) If the aggregate weight, including any mixture, is 14 grams or more, but less than
41 28 grams, such person shall be sentenced to a minimum term of imprisonment for not
42 less ten nor more than 20 years and shall pay a fine up to \$100,000.00; and

43 (C) If the aggregate weight, including any mixture, is 28 grams or more, such person
44 shall be sentenced to a minimum term of imprisonment of 25 years and shall pay a fine
45 up to \$250,000.00.

46 (2) Any sentenced imposed shall not be suspended, probated, deferred, or withheld, and
47 the charge shall not be reduced to a lesser offense, merged with any other offense, or
48 served concurrently with any other offense."

49 **SECTION 4.**

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