

The Senate Committee on Public Safety offered the following substitute to HB 167:

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 regarding the regulation of
3 controlled substances, so as to provide for enhanced penalties for offenses relating to the
4 manufacture, delivery, distribution, dispensing, administering, sale, or possession with intent
5 to distribute certain controlled substances where death or serious bodily injury results from
6 the use of such substance; to provide a definition; to provide for a short title; to provide for
7 related matters; to provide for an effective date and for applicability; to repeal conflicting
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Justice for Victims of Drug-Induced
12 Homicide Act."

13 **SECTION 2.**

14 Part 1 of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated,
15 relating to schedules, offenses, and penalties regarding the regulation of controlled

16 substances, is amended by revising subsections (c), (d), (e), (f), (g), (h), (k), and (m) and
17 paragraph (2) of subsection (l) of Code Section 16-13-30, relating to purchase, possession,
18 manufacture, distribution, or sale of controlled substances or marijuana and penalties, as
19 follows:

20 "(c) Except as otherwise provided, any person who violates subsection (a) of this Code
21 section with respect to a controlled substance in Schedule I or a narcotic drug in Schedule
22 II shall be guilty of a felony and, upon conviction thereof, shall be punished as follows:

23 (1) If the aggregate weight, including any mixture, is less than one gram of a solid
24 substance, less than one milliliter of a liquid substance, or if the substance is placed onto
25 a secondary medium with a combined weight of less than one gram, by imprisonment for
26 not less than one nor more than three years; provided, however, that if death or serious
27 bodily injury results from the use of such substance he or she shall be imprisoned for not
28 less than ten years nor more than 40 years or life imprisonment;

29 (2) If the aggregate weight, including any mixture, is at least one gram but less than four
30 grams of a solid substance, at least one milliliter but less than four milliliters of a liquid
31 substance, or if the substance is placed onto a secondary medium with a combined weight
32 of at least one gram but less than four grams, by imprisonment for not less than one nor
33 more than eight years; provided, however, that if death or serious bodily injury results
34 from the use of such substance he or she shall be imprisoned for not less than ten years
35 nor more than 40 years or life imprisonment; and

36 (3)(A) Except as provided in subparagraph (B) of this paragraph, if the aggregate
37 weight, including any mixture, is at least four grams but less than 28 grams of a solid
38 substance, at least four milliliters but less than 28 milliliters of a liquid substance, or if
39 the substance is placed onto a secondary medium with a combined weight of at least
40 four grams but less than 28 grams, by imprisonment for not less than one nor more than
41 15 years; provided, however, that if death or serious bodily injury results from the use

42 of such substance he or she shall be imprisoned for not less than ten years nor more
43 than 40 years or life imprisonment.

44 (B) This paragraph shall not apply to morphine, heroin, opium, or any substance
45 identified in subparagraph (RR) or (SS) of paragraph (1) or paragraph (13), (14), or (15)
46 of Code Section 16-13-25, or subparagraph (A), (C.5), (F), (U.1), (V), or (V.2) of
47 paragraph (2) of Code Section 16-13-26 or any salt, isomer, or salt of an isomer; rather,
48 the provisions of Code Section 16-13-31 shall control these substances.

49 (d) Except as otherwise provided, any person who violates subsection (b) of this Code
50 section with respect to a controlled substance in Schedule I or Schedule II shall be guilty
51 of a felony and, upon conviction thereof, shall be punished by imprisonment for not less
52 than five years nor more than 30 years; provided, however, that if death or serious bodily
53 injury results from the use of such substance he or she shall be imprisoned for not less than
54 ten years nor more than 40 years or life imprisonment. Upon conviction of a second or
55 subsequent offense, he or she shall be imprisoned for not less than ten years nor more than
56 40 years or life imprisonment years; provided, however, that if death or serious bodily
57 injury results from the use of such substance he or she shall be imprisoned for not less than
58 15 years nor more than 50 years or life imprisonment. The provisions of subsection (a) of
59 Code Section 17-10-7 shall not apply to a sentence imposed for a second such offense;
60 provided, however, that the remaining provisions of Code Section 17-10-7 shall apply for
61 any subsequent offense.

62 (e) Any person who violates subsection (a) of this Code section with respect to a
63 controlled substance in Schedule II, other than a narcotic drug, shall be guilty of a felony
64 and, upon conviction thereof, shall be punished as follows:

65 (1) If the aggregate weight, including any mixture, is less than two grams of a solid
66 substance, less than two milliliters of a liquid substance, or if the substance is placed onto
67 a secondary medium with a combined weight of less than two grams, by imprisonment
68 for not less than one nor more than three years; provided, however, that if death or serious

69 bodily injury results from the use of such substance he or she shall be imprisoned for not
70 less than ten years nor more than 40 years or life imprisonment;

71 (2) If the aggregate weight, including any mixture, is at least two grams but less than
72 four grams of a solid substance, at least two milliliters but less than four milliliters of a
73 liquid substance, or if the substance is placed onto a secondary medium with a combined
74 weight of at least two grams but less than four grams, by imprisonment for not less than
75 one nor more than eight years; provided, however, that if death or serious bodily injury
76 results from the use of such substance he or she shall be imprisoned for not less than ten
77 years nor more than 40 years or life imprisonment; and

78 (3) If the aggregate weight, including any mixture, is at least four grams but less than 28
79 grams of a solid substance, at least four milliliters but less than 28 milliliters of a liquid
80 substance, or if the substance is placed onto a secondary medium with a combined weight
81 of at least four grams but less than 28 grams, by imprisonment for not less than one nor
82 more than 15 years; provided, however, that if death or serious bodily injury results from
83 the use of such substance he or she shall be imprisoned for not less than ten years nor
84 more than 40 years or life imprisonment.

85 (f) Upon a third or subsequent conviction for a violation of subsection (a) of this Code
86 section with respect to a controlled substance in Schedule I or II or subsection (i) of this
87 Code section, such person shall be punished by imprisonment for a term not to exceed
88 twice the length of the sentence applicable to the particular crime; provided, however, that
89 if death or serious bodily injury results from the use of such substance he or she shall be
90 imprisoned for not less than 15 years nor more than 50 years or life imprisonment.

91 (g) Except as provided in subsection (l) of this Code section, any person who violates
92 subsection (a) of this Code section with respect to a controlled substance in Schedule III,
93 IV, or V shall be guilty of a felony and, upon conviction thereof, shall be punished by
94 imprisonment for not less than one year nor more than three years; provided, however, that
95 if death or serious bodily injury results from the use of such substance he or she shall be

96 imprisoned for not less than ten years nor more than 40 years or life imprisonment. Upon
97 conviction of a third or subsequent offense, he or she shall be imprisoned for not less than
98 one year nor more than five years; provided, however, that if death or serious bodily injury
99 results from the use of such substance he or she shall be imprisoned for not less than 15
100 years nor more than 50 years or life imprisonment.

101 (h) Any person who violates subsection (b) of this Code section with respect to a
102 controlled substance in Schedule III, IV, or V shall be guilty of a felony and, upon
103 conviction thereof, shall be punished by imprisonment for not less than one year nor more
104 than ten years; provided, however, that if death or serious bodily injury results from the use
105 of such substance he or she shall be imprisoned for not less than ten years nor more than
106 40 years or life imprisonment."

107 "(k) It shall be unlawful for any person to hire, solicit, engage, or use an individual under
108 the age of 17 years, in any manner, for the purpose of manufacturing, distributing, or
109 dispensing, on behalf of the solicitor, any controlled substance, counterfeit substance, or
110 marijuana unless the manufacturing, distribution, or dispensing is otherwise allowed by
111 law. Any person who violates this subsection shall be guilty of a felony and, upon
112 conviction thereof, shall be punished by imprisonment for not less than five years nor more
113 than 20 years or by a fine not to exceed \$20,000.00, or both; provided, however, that if
114 death or serious bodily injury results from the use of such substance he or she shall be
115 imprisoned for not less than ten years nor more than 40 years or life imprisonment."

116 "(2) Any person who violates subsection (b) of this Code section with respect to
117 flunitrazepam, a Schedule IV controlled substance, shall be guilty of a felony and, upon
118 conviction thereof, shall be punished by imprisonment for not less than five years nor
119 more than 30 years; provided, however, that if death or serious bodily injury results from
120 the use of such substance he or she shall be imprisoned for not less than ten years nor
121 more than 40 years or life imprisonment. Upon conviction of a second or subsequent
122 offense, such person shall be punished by imprisonment for not less than ten years nor

123 more than 40 years or life imprisonment; provided, however, that if death or serious
124 bodily injury results from the use of such substance he or she shall be imprisoned for not
125 less than 15 years nor more than 50 years or life imprisonment. The provisions of
126 subsection (a) of Code Section 17-10-7 shall not apply to a sentence imposed for a second
127 such offense, but that subsection and the remaining provisions of Code Section 17-10-7
128 shall apply for any subsequent offense.

129 (m) As used in this Code section, the term:

130 (1) 'Use of such substance' shall include exposure to or contact with such substance by
131 a law enforcement officer, firefighter, or first responder as defined in Code Section
132 31-11-55.1 in the course of his or her duties resulting in his or her death or serious bodily
133 injury.

134 (2) 'Solid substance' ~~'solid substance'~~ means a substance that is not in a liquid or gas
135 form. Such term shall include tablets, pills, capsules, caplets, powder, crystal, or any
136 variant of such items."

137 **SECTION 3.**

138 This Act shall become effective upon its approval by the Governor or upon its becoming law
139 without such approval and shall apply to offenses committed on or after such date.

140 **SECTION 4.**

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