

By: Representatives Baker, Paden, Hines

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 867

1 AN ACT TO CREATE "PARKER'S LAW"; TO AMEND SECTION 41-29-139,
2 MISSISSIPPI CODE OF 1972, TO ADD PENALTIES FOR POSSESSION OF
3 HEROIN OR FENTANYL AND POSSESSION WITH INTENT TO TRANSFER HEROIN
4 OR FENTANYL, TO THE PROVISIONS OF LAW THAT PROVIDE PENALTIES FOR
5 POSSESSION AND SELL OF ALL PROHIBITED CONTROLLED SUBSTANCES; AND
6 FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** This act shall be known and may be cited as
9 "Parker's Law."

10 **SECTION 2.** Section 41-29-139, Mississippi Code of 1972, is
11 amended as follows:

12 41-29-139. (a) **Transfer and possession with intent to**
13 **transfer.** Except as authorized by this article, it is unlawful
14 for any person knowingly or intentionally:

15 (1) To sell, barter, transfer, manufacture, distribute,
16 dispense or possess with intent to sell, barter, transfer,
17 manufacture, distribute or dispense, a controlled substance; or

18 (2) To create, sell, barter, transfer, distribute,
19 dispense or possess with intent to create, sell, barter, transfer,
20 distribute or dispense, a counterfeit substance.



21 (b) **Punishment for transfer and possession with intent to**
22 **transfer.** Except as otherwise provided in Section 41-29-142, any
23 person who violates subsection (a) of this section shall be, if
24 convicted, sentenced as follows:

25 (1) For controlled substances classified in Schedule I
26 or II, as set out in Sections 41-29-113 and 41-29-115, other than
27 marijuana * * *, synthetic cannabinoids, heroin or fentanyl:

28 (A) If less than two (2) grams or ten (10) dosage
29 units, by imprisonment for not more than eight (8) years or a fine
30 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

31 (B) If two (2) or more grams or ten (10) or more
32 dosage units, but less than ten (10) grams or twenty (20) dosage
33 units, by imprisonment for not less than three (3) years nor more
34 than twenty (20) years or a fine of not more than Two Hundred
35 Fifty Thousand Dollars (\$250,000.00), or both.

36 (C) If ten (10) or more grams or twenty (20) or
37 more dosage units, but less than thirty (30) grams or forty (40)
38 dosage units, by imprisonment for not less than five (5) years nor
39 more than thirty (30) years or a fine of not more than Five
40 Hundred Thousand Dollars (\$500,000.00), or both.

41 (D) If any person violates paragraphs (B) and (C)
42 of this subsection (b) (1) and death or serious bodily injury of
43 another person results from the use of the substances described in
44 paragraphs (B) and (C) of this subsection (b) (1), such person
45 shall, upon conviction, be guilty of a felony for each person that



46 suffers such death or injury, and imprisoned in the custody of the
47 Department of Corrections for not less than twenty (20) years up
48 to life imprisonment without parole, and a fine of not more than
49 One Million Dollars (\$1,000.000).

50 (2) (A) For marijuana:

51 1. If thirty (30) grams or less, by
52 imprisonment for not more than three (3) years or a fine of not
53 more than Three Thousand Dollars (\$3,000.00), or both;

54 2. If more than thirty (30) grams but less
55 than two hundred fifty (250) grams, by imprisonment for not more
56 than five (5) years or a fine of not more than Five Thousand
57 Dollars (\$5,000.00), or both;

58 3. If two hundred fifty (250) or more grams
59 but less than five hundred (500) grams, by imprisonment for not
60 less than three (3) years nor more than ten (10) years or a fine
61 of not more than Fifteen Thousand Dollars (\$15,000.00), or both;

62 4. If five hundred (500) or more grams but
63 less than one (1) kilogram, by imprisonment for not less than five
64 (5) years nor more than twenty (20) years or a fine of not more
65 than Twenty Thousand Dollars (\$20,000.00), or both.

66 (B) For synthetic cannabinoids:

67 1. If ten (10) grams or less, by imprisonment
68 for not more than three (3) years or a fine of not more than Three
69 Thousand Dollars (\$3,000.00), or both;



70 2. If more than ten (10) grams but less than
71 twenty (20) grams, by imprisonment for not more than five (5)
72 years or a fine of not more than Five Thousand Dollars
73 (\$5,000.00), or both;

74 3. If twenty (20) or more grams but less than
75 forty (40) grams, by imprisonment for not less than three (3)
76 years nor more than ten (10) years or a fine of not more than
77 Fifteen Thousand Dollars (\$15,000.00), or both;

78 4. If forty (40) or more grams but less than
79 two hundred (200) grams, by imprisonment for not less than five
80 (5) years nor more than twenty (20) years or a fine of not more
81 than Twenty Thousand Dollars (\$20,000.00), or both.

82 (C) For heroin and fentanyl:

83 1. If less than two (2) grams or ten (10)
84 dosage units, by imprisonment for not more than twelve (12) years
85 or a fine of not more than One Hundred Thousand Dollars
86 (\$100,000.00), or both;

87 2. If two (2) or more grams or ten (10) or
88 more dosage units, but less than ten (10) grams or twenty (20)
89 dosage units, by imprisonment for not less than ten (10) years nor
90 more than thirty (30) years or a fine of not more than Five
91 Hundred Thousand Dollars (\$500,000.00), or both;

92 3. If ten (10) or more grams or twenty (20)
93 or more dosage units, but less than thirty (30) grams or forty
94 (40) dosage units, by imprisonment for not less than fifteen (15)



95 years nor more than forty (40) years or a fine of not more than
96 One Million Dollars (\$1,000,000.00), or both.

97 4. If any person violates the provisions of
98 this subsection(C), and death or serious bodily injury of another
99 person results from the use of such substances, the person shall,
100 upon conviction, be guilty of a felony for each person that
101 suffers such death or injury, and imprisoned in the custody of the
102 Department of Corrections for not less than twenty (20) years up
103 to life imprisonment without parole, and a fine of not more than
104 One Million Dollars (\$1,000.000).

105 (3) For controlled substances classified in Schedules
106 III and IV, as set out in Sections 41-29-117 and 41-29-119:

107 (A) If less than two (2) grams or ten (10) dosage
108 units, by imprisonment for not more than five (5) years or a fine
109 of not more than Five Thousand Dollars (\$5,000.00), or both;

110 (B) If two (2) or more grams or ten (10) or more
111 dosage units, but less than ten (10) grams or twenty (20) dosage
112 units, by imprisonment for not more than eight (8) years or a fine
113 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

114 (C) If ten (10) or more grams or twenty (20) or
115 more dosage units, but less than thirty (30) grams or forty (40)
116 dosage units, by imprisonment for not more than fifteen (15) years
117 or a fine of not more than One Hundred Thousand Dollars
118 (\$100,000.00), or both;



119 (D) If thirty (30) or more grams or forty (40) or
120 more dosage units, but less than five hundred (500) grams or two
121 thousand five hundred (2,500) dosage units, by imprisonment for
122 not more than twenty (20) years or a fine of not more than Two
123 Hundred Fifty Thousand Dollars (\$250,000.00), or both.

124 (4) For controlled substances classified in Schedule V,
125 as set out in Section 41-29-121:

126 (A) If less than two (2) grams or ten (10) dosage
127 units, by imprisonment for not more than one (1) year or a fine of
128 not more than Five Thousand Dollars (\$5,000.00), or both;

129 (B) If two (2) or more grams or ten (10) or more
130 dosage units, but less than ten (10) grams or twenty (20) dosage
131 units, by imprisonment for not more than five (5) years or a fine
132 of not more than Ten Thousand Dollars (\$10,000.00), or both;

133 (C) If ten (10) or more grams or twenty (20) or
134 more dosage units, but less than thirty (30) grams or forty (40)
135 dosage units, by imprisonment for not more than ten (10) years or
136 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
137 both;

138 (D) For thirty (30) or more grams or forty (40) or
139 more dosage units, but less than five hundred (500) grams or two
140 thousand five hundred (2,500) dosage units, by imprisonment for
141 not more than fifteen (15) years or a fine of not more than Fifty
142 Thousand Dollars (\$50,000.00), or both.



143 (E) If any person violates the provisions of
144 paragraphs (B), (C), and (D), and death or serious bodily injury
145 of another person results from the use of the substances described
146 in paragraphs (B), (C), and (D), the person shall, upon
147 conviction, be guilty of a felony for each person that suffers
148 such death or injury, and imprisoned in the custody of the
149 Department of Corrections for not less than twenty (20) years up
150 to life imprisonment without parole, and a fine of not more than
151 One Million Dollars (\$1,000.000).

152 (c) **Simple possession.** It is unlawful for any person
153 knowingly or intentionally to possess any controlled substance
154 unless the substance was obtained directly from, or pursuant to, a
155 valid prescription or order of a practitioner while acting in the
156 course of his professional practice, or except as otherwise
157 authorized by this article. The penalties for any violation of
158 this subsection (c) with respect to a controlled substance
159 classified in Schedules I, II, III, IV or V, as set out in Section
160 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
161 marijuana or synthetic cannabinoids, shall be based on dosage unit
162 as defined herein or the weight of the controlled substance as set
163 forth herein as appropriate:

164 "Dosage unit (d.u.)" means a tablet or capsule, or in the
165 case of a liquid solution, one (1) milliliter. In the case of
166 lysergic acid diethylamide (LSD) the term, "dosage unit" means a



167 stamp, square, dot, microdot, tablet or capsule of a controlled
168 substance.

169 For any controlled substance that does not fall within the
170 definition of the term "dosage unit," the penalties shall be based
171 upon the weight of the controlled substance.

172 The weight set forth refers to the entire weight of any
173 mixture or substance containing a detectable amount of the
174 controlled substance.

175 If a mixture or substance contains more than one (1)
176 controlled substance, the weight of the mixture or substance is
177 assigned to the controlled substance that results in the greater
178 punishment.

179 A person shall be charged and sentenced as follows for a
180 violation of this subsection with respect to:

181 (1) A controlled substance classified in Schedule I or
182 II, except marijuana and synthetic cannabinoids:

183 (A) If less than one-tenth (0.1) gram or two (2)
184 dosage units, the violation is a misdemeanor and punishable by
185 imprisonment for not more than one (1) year or a fine of not more
186 than One Thousand Dollars (\$1,000.00), or both.

187 (B) If one-tenth (0.1) gram or more or two (2) or
188 more dosage units, but less than two (2) grams or ten (10) dosage
189 units, by imprisonment for not more than three (3) years or a fine
190 of not more than Fifty Thousand Dollars (\$50,000.00), or both.



191 (C) If two (2) or more grams or ten (10) or more
192 dosage units, but less than ten (10) grams or twenty (20) dosage
193 units, by imprisonment for not more than eight (8) years or a fine
194 of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
195 or both.

196 (D) If ten (10) or more grams or twenty (20) or
197 more dosage units, but less than thirty (30) grams or forty (40)
198 dosage units, by imprisonment for not less than three (3) years
199 nor more than twenty (20) years or a fine of not more than Five
200 Hundred Thousand Dollars (\$500,000.00), or both.

201 (2) (A) Marijuana and synthetic cannabinoids:

202 1. If thirty (30) grams or less of marijuana
203 or ten (10) grams or less of synthetic cannabinoids, by a fine of
204 not less than One Hundred Dollars (\$100.00) nor more than Two
205 Hundred Fifty Dollars (\$250.00). The provisions of this paragraph
206 (2) (A) may be enforceable by summons if the offender provides
207 proof of identity satisfactory to the arresting officer and gives
208 written promise to appear in court satisfactory to the arresting
209 officer, as directed by the summons. A second conviction under
210 this section within two (2) years is a misdemeanor punishable by a
211 fine of Two Hundred Fifty Dollars (\$250.00), not more than sixty
212 (60) days in the county jail, and mandatory participation in a
213 drug education program approved by the Division of Alcohol and
214 Drug Abuse of the State Department of Mental Health, unless the
215 court enters a written finding that a drug education program is



216 inappropriate. A third or subsequent conviction under this
217 paragraph (2) (A) within two (2) years is a misdemeanor punishable
218 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor
219 more than One Thousand Dollars (\$1,000.00) and confinement for not
220 more than six (6) months in the county jail.

221 Upon a first or second conviction under this paragraph
222 (2) (A), the courts shall forward a report of the conviction to the
223 Mississippi Bureau of Narcotics which shall make and maintain a
224 private, nonpublic record for a period not to exceed two (2) years
225 from the date of conviction. The private, nonpublic record shall
226 be solely for the use of the courts in determining the penalties
227 which attach upon conviction under this paragraph (2) (A) and shall
228 not constitute a criminal record for the purpose of private or
229 administrative inquiry and the record of each conviction shall be
230 expunged at the end of the period of two (2) years following the
231 date of such conviction;

232 2. Additionally, a person who is the operator
233 of a motor vehicle, who possesses on his person or knowingly keeps
234 or allows to be kept in a motor vehicle within the area of the
235 vehicle normally occupied by the driver or passengers, more than
236 one (1) gram, but not more than thirty (30) grams of marijuana or
237 not more than ten (10) grams of synthetic cannabinoids is guilty
238 of a misdemeanor and, upon conviction, may be fined not more than
239 One Thousand Dollars (\$1,000.00) or confined for not more than
240 ninety (90) days in the county jail, or both. For the purposes of



241 this subsection, such area of the vehicle shall not include the
242 trunk of the motor vehicle or the areas not normally occupied by
243 the driver or passengers if the vehicle is not equipped with a
244 trunk. A utility or glove compartment shall be deemed to be
245 within the area occupied by the driver and passengers;

246 (B) Marijuana:

247 1. If more than thirty (30) grams but less
248 than two hundred fifty (250) grams, by a fine of not more than One
249 Thousand Dollars (\$1,000.00), or confinement in the county jail
250 for not more than one (1) year, or both; or by a fine of not more
251 than Three Thousand Dollars (\$3,000.00), or imprisonment in the
252 custody of the Department of Corrections for not more than three
253 (3) years, or both;

254 2. If two hundred fifty (250) or more grams
255 but less than five hundred (500) grams, by imprisonment for not
256 less than two (2) years nor more than eight (8) years or by a fine
257 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

258 3. If five hundred (500) or more grams but
259 less than one (1) kilogram, by imprisonment for not less than four
260 (4) years nor more than sixteen (16) years or a fine of not more
261 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

262 4. If one (1) kilogram or more but less than
263 five (5) kilograms, by imprisonment for not less than six (6)
264 years nor more than twenty-four (24) years or a fine of not more
265 than Five Hundred Thousand Dollars (\$500,000.00), or both;



266 5. If five (5) kilograms or more, by
267 imprisonment for not less than ten (10) years nor more than thirty
268 (30) years or a fine of not more than One Million Dollars
269 (\$1,000,000.00), or both.

270 (C) Synthetic cannabinoids:

271 1. If more than ten (10) grams but less than
272 twenty (20) grams, by a fine of not more than One Thousand Dollars
273 (\$1,000.00), or confinement in the county jail for not more than
274 one (1) year, or both; or by a fine of not more than Three
275 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
276 the Department of Corrections for not more than three (3) years,
277 or both;

278 2. If twenty (20) or more grams but less than
279 forty (40) grams, by imprisonment for not less than two (2) years
280 nor more than eight (8) years or by a fine of not more than Fifty
281 Thousand Dollars (\$50,000.00), or both;

282 3. If forty (40) or more grams but less than
283 two hundred (200) grams, by imprisonment for not less than four
284 (4) years nor more than sixteen (16) years or a fine of not more
285 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

286 4. If two hundred (200) or more grams, by
287 imprisonment for not less than six (6) years nor more than
288 twenty-four (24) years or a fine of not more than Five Hundred
289 Thousand Dollars (\$500,000.00), or both.



290 (3) A controlled substance classified in Schedule III,
291 IV or V as set out in Sections 41-29-117 through 41-29-121, upon
292 conviction, may be punished as follows:

293 (A) If less than fifty (50) grams or less than one
294 hundred (100) dosage units, the offense is a misdemeanor and
295 punishable by not more than one (1) year or a fine of not more
296 than One Thousand Dollars (\$1,000.00), or both.

297 (B) If fifty (50) or more grams or one hundred
298 (100) or more dosage units, but less than one hundred fifty (150)
299 grams or five hundred (500) dosage units, by imprisonment for not
300 less than one (1) year nor more than four (4) years or a fine of
301 not more than Ten Thousand Dollars (\$10,000.00), or both.

302 (C) If one hundred fifty (150) or more grams or
303 five hundred (500) or more dosage units, but less than three
304 hundred (300) grams or one thousand (1,000) dosage units, by
305 imprisonment for not less than two (2) years nor more than eight
306 (8) years or a fine of not more than Fifty Thousand Dollars
307 (\$50,000.00), or both.

308 (D) If three hundred (300) or more grams or one
309 thousand (1,000) or more dosage units, but less than five hundred
310 (500) grams or two thousand five hundred (2,500) dosage units, by
311 imprisonment for not less than four (4) years nor more than
312 sixteen (16) years or a fine of not more than Two Hundred Fifty
313 Thousand Dollars (\$250,000.00), or both.



314 (d) **Paraphernalia.** (1) It is unlawful for a person who is
315 not authorized by the State Board of Medical Licensure, State
316 Board of Pharmacy, or other lawful authority to use, or to possess
317 with intent to use, paraphernalia to plant, propagate, cultivate,
318 grow, harvest, manufacture, compound, convert, produce, process,
319 prepare, test, analyze, pack, repack, store, contain, conceal,
320 inject, ingest, inhale or otherwise introduce into the human body
321 a controlled substance in violation of the Uniform Controlled
322 Substances Law. Any person who violates this subsection (d)(1) is
323 guilty of a misdemeanor and, upon conviction, may be confined in
324 the county jail for not more than six (6) months, or fined not
325 more than Five Hundred Dollars (\$500.00), or both; however, no
326 person shall be charged with a violation of this subsection when
327 such person is also charged with the possession of thirty (30)
328 grams or less of marijuana under subsection (c)(2)(A) of this
329 section.

330 (2) It is unlawful for any person to deliver, sell,
331 possess with intent to deliver or sell, or manufacture with intent
332 to deliver or sell, paraphernalia, knowing, or under circumstances
333 where one reasonably should know, that it will be used to plant,
334 propagate, cultivate, grow, harvest, manufacture, compound,
335 convert, produce, process, prepare, test, analyze, pack, repack,
336 store, contain, conceal, inject, ingest, inhale, or otherwise
337 introduce into the human body a controlled substance in violation
338 of the Uniform Controlled Substances Law. Except as provided in



339 subsection (d) (3), a person who violates this subsection (d) (2) is
340 guilty of a misdemeanor and, upon conviction, may be confined in
341 the county jail for not more than six (6) months, or fined not
342 more than Five Hundred Dollars (\$500.00), or both.

343 (3) Any person eighteen (18) years of age or over who
344 violates subsection (d) (2) of this section by delivering or
345 selling paraphernalia to a person under eighteen (18) years of age
346 who is at least three (3) years his junior is guilty of a
347 misdemeanor and, upon conviction, may be confined in the county
348 jail for not more than one (1) year, or fined not more than One
349 Thousand Dollars (\$1,000.00), or both.

350 (4) It is unlawful for any person to place in any
351 newspaper, magazine, handbill, or other publication any
352 advertisement, knowing, or under circumstances where one
353 reasonably should know, that the purpose of the advertisement, in
354 whole or in part, is to promote the sale of objects designed or
355 intended for use as paraphernalia. Any person who violates this
356 subsection is guilty of a misdemeanor and, upon conviction, may be
357 confined in the county jail for not more than six (6) months, or
358 fined not more than Five Hundred Dollars (\$500.00), or both.

359 (e) It shall be unlawful for any physician practicing
360 medicine in this state to prescribe, dispense or administer any
361 amphetamine or amphetamine-like anorectics and/or central nervous
362 system stimulants classified in Schedule II, pursuant to Section
363 41-29-115, for the exclusive treatment of obesity, weight control



364 or weight loss. Any person who violates this subsection, upon
365 conviction, is guilty of a misdemeanor and may be confined for a
366 period not to exceed six (6) months, or fined not more than One
367 Thousand Dollars (\$1,000.00), or both.

368 (f) **Trafficking.** (1) Any person trafficking in controlled
369 substances shall be guilty of a felony and, upon conviction, shall
370 be imprisoned for a term of not less than ten (10) years nor more
371 than forty (40) years and shall be fined not less than Five
372 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
373 (\$1,000,000.00). The ten-year mandatory sentence shall not be
374 reduced or suspended. The person shall not be eligible for
375 probation or parole, the provisions of Sections 41-29-149,
376 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

377 (2) "Trafficking in controlled substances" as used
378 herein means:

379 (A) A violation of subsection (a) of this section
380 involving thirty (30) or more grams or forty (40) or more dosage
381 units of a Schedule I or II controlled substance except marijuana
382 and synthetic cannabinoids;

383 (B) A violation of subsection (a) of this section
384 involving five hundred (500) or more grams or two thousand five
385 hundred (2,500) or more dosage units of a Schedule III, IV or V
386 controlled substance;

387 (C) A violation of subsection (c) of this section
388 involving thirty (30) or more grams or forty (40) or more dosage



389 units of a Schedule I or II controlled substance except marijuana
390 and synthetic cannabinoids;

391 (D) A violation of subsection (c) of this section
392 involving five hundred (500) or more grams or two thousand five
393 hundred (2,500) or more dosage units of a Schedule III, IV or V
394 controlled substance; or

395 (E) A violation of subsection (a) of this section
396 involving one (1) kilogram or more of marijuana or two hundred
397 (200) grams or more of synthetic cannabinoids.

398 (g) **Aggravated trafficking.** Any person trafficking in
399 Schedule I or II controlled substances, except marijuana and
400 synthetic cannabinoids, of two hundred (200) grams or more or two
401 hundred (200) dosage units or more shall be guilty of aggravated
402 trafficking and, upon conviction, shall be sentenced to a term of
403 not less than twenty-five (25) years nor more than life in prison
404 and shall be fined not less than Five Thousand Dollars (\$5,000.00)
405 nor more than One Million Dollars (\$1,000,000.00). The
406 twenty-five-year sentence shall be a mandatory sentence and shall
407 not be reduced or suspended. The person shall not be eligible for
408 probation or parole, the provisions of Sections 41-29-149,
409 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

410 (h) **Sentence mitigation.** (1) Notwithstanding any provision
411 of this section, a person who has been convicted of an offense
412 under this section that requires the judge to impose a prison
413 sentence which cannot be suspended or reduced and is ineligible



414 for probation or parole may, at the discretion of the court,
415 receive a sentence of imprisonment that is no less than
416 twenty-five percent (25%) of the sentence prescribed by the
417 applicable statute. In considering whether to apply the departure
418 from the sentence prescribed, the court shall conclude that:

419 (A) The offender was not a leader of the criminal
420 enterprise;

421 (B) The offender did not use violence or a weapon
422 during the crime;

423 (C) The offense did not result in a death or
424 serious bodily injury of a person not a party to the criminal
425 enterprise; and

426 (D) The interests of justice are not served by the
427 imposition of the prescribed mandatory sentence.

428 The court may also consider whether information and
429 assistance were furnished to a law enforcement agency, or its
430 designee, which, in the opinion of the trial judge, objectively
431 should or would have aided in the arrest or prosecution of others
432 who violate this subsection. The accused shall have adequate
433 opportunity to develop and make a record of all information and
434 assistance so furnished.

435 (2) If the court reduces the prescribed sentence
436 pursuant to this subsection, it must specify on the record the
437 circumstances warranting the departure.



438 **SECTION 3.** This act shall take effect and be in force from
439 and after July 1, 2019.

