



# A Review of Parker's Law Convictions



Joint Legislative Committee on Performance  
Evaluation and Expenditure Review

Issue Brief #680  
December 13, 2022

# PEER Committee

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## About PEER:

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker of the House and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms, with one Senator and one Representative appointed from each of the U.S. Congressional Districts and three at-large members appointed from each house. Committee officers are elected by the membership, with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues that may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, the agency examined, and the general public.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

## Scope and Authority

As required by MISS. CODE ANN. Section 41-29-139.1 (1972), otherwise known as Parker's Law, the PEER Committee prepared the following:

- An overview of Parker's Law, and similar provisions of law in the United States; and,
- The number of convictions that have occurred under Parker's Law since its adoption.

## Background

### *The Requirements of Parker's Law*

In 2022, the Mississippi Legislature adopted *Chapter 401, Laws of 2022*, otherwise known as Parker's Law. Section 2 of this legislation provides:

*(1) A person who delivers or causes the delivery of fentanyl with knowledge of the fentanyl commits the crime of "fentanyl delivery resulting in death" when as a result of the unlawful delivery of fentanyl in exchange for anything of value to another person, death to a person results from the proximate cause of injection, oral ingestion or inhalation of the fentanyl. Upon conviction for violating the provisions of this section, the person shall be sentenced to imprisonment no less than twenty (20) years to a term of life in the custody of the Mississippi Department of Corrections.*

*(2) For purposes of this act only, any person, who, in good faith, without malice and in the absence of evidence of an intent to defraud, seeks medical assistance for someone experiencing a fentanyl overdose shall not be charged or prosecuted for a violation of this section, if the evidence for the charge was gained as a result of the seeking of medical assistance.*

*(3) For purposes of this act:*

*(a) "Fentanyl" means fentanyl and any fentanyl-related substances, to include fentanyl analogs, as set forth in Article 3, Chapter 29 of Title 41 of the Mississippi Code of 1972.*

*(b) "In exchange for anything of value" does not apply to the act of sharing fentanyl when the sharing results in the proximate cause of a person's death under this section.*

*(4) The legislative intent for this bill is to assist in prosecuting any person who sells or otherwise profits from the sale of unlawful fentanyl, which causes the death of another person. It is not the intent of this Legislature for the provisions of this section to be used to prosecute a drug user or drug addict who has shared fentanyl with a friend or associate and the friend or associate dies as a result of the sharing.*

(5) The provisions of this section shall not be construed to limit, restrict or otherwise prohibit an indictment or conviction for any other crime that may be related to a violation of this section.

(6) The Joint Legislative Committee on Performance Evaluation and Expenditure Review shall create an annual report of the number of persons convicted under the provisions of this act; and shall provide the report to the House and Senate Judiciary B committees by January 5, of each year.

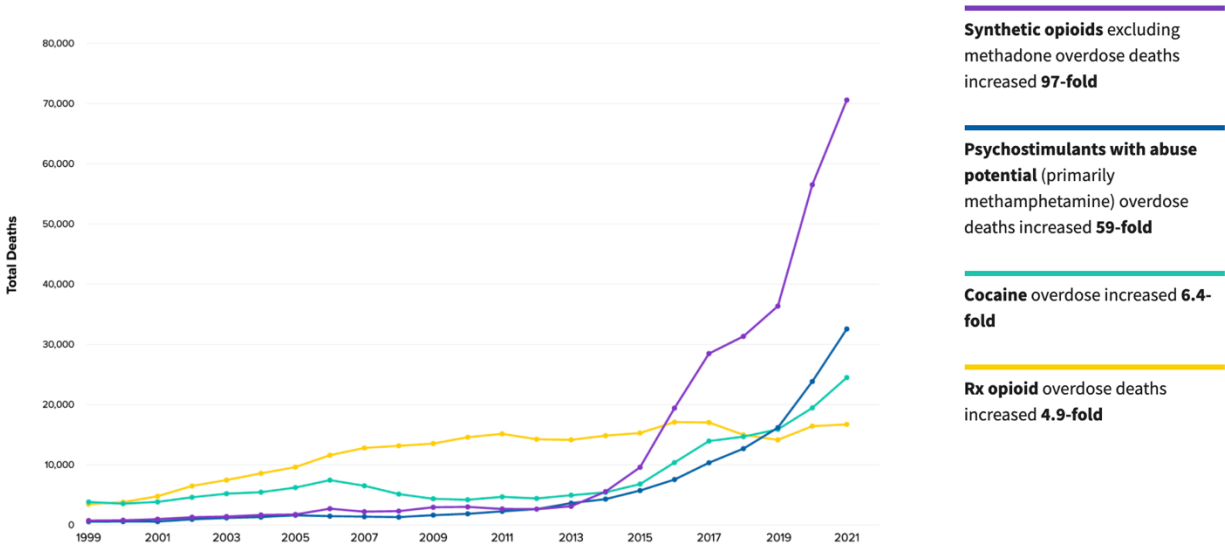
(7) This section shall stand repealed from and after July 1, 2025.

This provision of law was codified as MISS. CODE ANN. Section 41-29-139.1 (1972).

### The Fentanyl Problem

Parker’s Law was adopted as a response to the growing problem of Fentanyl use and addiction. According to the U.S. Department of Health and Human Services, overdose deaths resulting from synthetic opioids such as Fentanyl have increased 97-fold from since 1999. Exhibit 1 below illustrates the number of drug overdose deaths in the U.S. from 1999 to 2021.

## Exhibit 1: Drug Overdose Deaths in the U.S. from 1999 to 2021



SOURCE: U.S. Department of Health and Human Services, “Overdose Prevention Strategy.”

Pharmaceutical fentanyl is a synthetic opioid, approved for treating severe pain, typically advanced cancer pain. It is 50 to 100 times more potent than morphine. It is prescribed in the form of transdermal patches or lozenges and can be diverted for misuse and abuse in the United States. However, most recent cases of fentanyl-related harm, overdose, and death in the U.S. are linked to illegally made

More than 56,000 people died from overdoses involving synthetic opioids in 2020.

fentanyl. It is sold through illegal drug markets for its heroin-like effect. It is often mixed with heroin and/or cocaine as a combination product—with or without the user’s knowledge—to increase its euphoric effects.

Rates of overdose deaths involving synthetic opioids other than methadone, which includes fentanyl and fentanyl analogs, increased by more than 56% from 2019 to 2020. The number of overdose deaths involving synthetic opioids in 2020 was more than 18 times the number in 2013. More than 56,000 people died from overdoses involving synthetic opioids in 2020. The latest provisional drug overdose death counts through June 2021 suggest an acceleration of overdose deaths during the COVID-19 pandemic.<sup>1</sup>

## Criminal Penalties for Drug-induced Homicides

The use of criminal statutes to punish those who distribute controlled substances to persons who die from the use of such substances is not new in this country. A 2017 report shows that 20 states and the federal government have adopted statutes that make it a felony to distribute a controlled substance to a person who ultimately dies from the use of that substance.<sup>2</sup>

Since that date, at least one state, Tennessee, has adopted a criminal provision that is similar to Mississippi’s.<sup>3</sup> That section provides:

(a) *Second degree murder is:*

(1) *A knowing killing of another;*

(2) *A killing of another that results from the unlawful distribution of any Schedule I or Schedule II drug, when the drug is the proximate cause of the death of the user; or*

(3) *A killing of another by unlawful distribution or unlawful delivery or unlawful dispensation of fentanyl or carfentanil, when those substances alone, or in combination with any substance scheduled as a controlled substance by the Tennessee Drug Control Act of 1989, compiled in chapter 17, part 4 of this title and in title 53, chapter 11, parts 3 and 4, including controlled substance analogs, is the proximate cause of the death of the user.*

(b) *In a prosecution for a violation of this section, if the defendant knowingly engages in multiple incidents of domestic abuse, assault or the infliction of bodily injury against a single victim, the trier of fact may infer that the defendant was aware that the cumulative effect of the conduct was reasonably certain to result in the death of the victim, regardless of whether any single incident would have resulted in the death.*

(c) (1) *Second degree murder is a Class A felony.*

(c) (2) *Notwithstanding the Tennessee Criminal Sentencing Reform Act of 1989, compiled in title 40, chapter 35, a person convicted of a violation of subdivision (a)(2) where the victim is a minor shall be punished from within one (1) range higher than the sentencing range otherwise appropriate for the person.<sup>4</sup>*

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<sup>1</sup> “Fentanyl,” Centers for Disease Control and Prevention, June 1, 2022.

<sup>2</sup> “An Overdose Death is not Murder,” Dru Policy Alliance, November 2017.

<sup>3</sup> Tenn. Code Section 39-13-211.

<sup>4</sup> Class A felonies in Tennessee are punishable by a prison sentence of 15 to 60 years and fines of up to \$50,000.

## Convictions under Parker's Law

Because Parker's law has only been in effect since July 1, 2022, there have been no convictions.

PEER staff contacted the Administrative Office of the Courts (AOC) to determine how many convictions have occurred under Parker's Law since its adoption. The staff of AOC reviewed court records in their possession, including filings maintained in Mississippi Electronic Courts (MEC). To date, the AOC has not recorded a conviction under Parker's Law. AOC and PEER emphasize that the provisions have only been in effect since July 1, 2022.

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