



# 2023 Update of Parker's Law Convictions



Joint Legislative Committee on Performance  
Evaluation and Expenditure Review

Issue Brief #699  
December 12, 2023

# PEER Committee

Jerry Turner, Chair  
Charles Younger, Vice-Chair  
Sollie Norwood, Secretary

## Senators:

Kevin Blackwell  
Lydia Chassaniol  
Dean Kirby  
Chad McMahan  
John Polk

## Representatives:

Richard Bennett  
Cedric Burnett  
Becky Currie  
Carolyn Crawford  
Timmy Ladner  
Percy Watson

## Executive Director:

James F. (Ted) Booth

## 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).

## Convictions Under Parker's Law

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). In the prior PEER review, *A Review of Parker's Law Convictions*, Issue Brief #680 (December 13, 2022), AOC reported no convictions.<sup>1</sup>

From December 1, 2022, through October 31, 2023, AOC has recorded three convictions under Parker's Law. Prosecutors convicted two men and one woman in Jones County, Clarke County, and Walthall County. The records do not include length of sentence imposed for each conviction.

AOC and PEER emphasize that the provisions have only been in effect since July 1, 2022.

## Prosecutors' Comments on Parker's Law

PEER staff contacted several state prosecutors about the low rate of drug-induced homicide convictions in Mississippi.

According to state prosecutors, Parker's law contains a knowledge requirement which hinders the number of convictions that can be made under the law. Specifically, the law states that only "a person who delivers or causes the delivery of fentanyl with knowledge of the fentanyl" may be convicted.

Prosecutors struggle to prove knowledge because fentanyl is often mixed with and sold as other substances, such as cocaine, methamphetamine, or prescription opioids. Additionally, dealers often do not have specific knowledge of the chemical content of what they are selling to consumers.

Prosecutors typically rely on phone records, text messages, and admission for convictions. Prosecutors recommended adopting a gross negligence standard<sup>2</sup> or a felony murder standard.<sup>3</sup> Doing so would lower

---

<sup>1</sup> The initial review period included a search of Parker's Law convictions from July 1, 2022, through November 17, 2022. However, AOC staff noted two Parker's Law convictions from November 18, 2022, through November 30, 2022.

<sup>2</sup> Gross negligence is a lack of care that demonstrates reckless disregard for the safety or lives of others, which is so great that it appears to be a conscious violation of other people's rights to safety.

<sup>3</sup> The felony murder standard is a law in most states and under federal law that allows anyone who is accused of committing a violent felony to be charged with murder if the commission of that felony results in the death of someone. The person involved in the felony may be charged for murder under the rule even if he or she had no intention of killing someone. Violent felonies include burglary, robbery, arson, rape, and kidnapping.

the requirements necessary to convict someone of drug-induced homicide, and therefore increase drug-induced homicide convictions.

## Critiques of Drug-induced Homicide Prosecutions

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. Twenty-three states and D.C. have passed criminal statutes concerning drug-induced homicide,<sup>4</sup> and states without drug-induced homicide statutes may charge the offense under various felony-murder, depraved heart,<sup>5</sup> or involuntary or voluntary manslaughter laws.<sup>6,7</sup>

Many state legislatures enacted drug-induced homicides laws to prevent overdoses, hold manufacturers and drug kingpins accountable, and deter future drug sales. In practice, drug-induced homicide prosecutions do not reduce overdose deaths. Analysis of prosecutions in New Jersey, Tennessee, North Carolina, Illinois, Louisiana, and New York found significant increases in overdose deaths despite dramatic growth in drug-induced homicide prosecutions.

In practice, drug-induced homicide prosecutions may actually increase the risk of fatal overdose. This is because when friends and family members fear arrest and prosecution, they may be less likely to call for emergency assistance in an overdose emergency.<sup>8</sup> Additionally, it is more difficult to prove charges against drug sellers who were not directly involved when the death occurred, and most states do not have provisions in statute that allow for consideration of the knowledge and intent of the drug distributor. According to a study by the Health in Justice Action Lab, 50% of individuals charged for drug-induced homicide are friends, family, or partners of the deceased. Only 47% of drug-induced homicide prosecutions charge the actual dealers of the drug.<sup>9</sup>

Finally, no empirical evidence shows that harsher punishment reduces the supply and demand for drugs. A recent 50-state survey found that higher rates of incarceration for drug crimes failed to lower rates of drug use, arrests, or overdose deaths.<sup>10</sup>

---

<sup>4</sup> *Drug-Induced Homicide Prosecutions*, Fair and Just Prosecution, <https://fairandjustprosecution.org/wp-content/uploads/2022/07/FJP-Drug-Induced-Homicide-Brief.pdf> (last visited November 28, 2023).

<sup>5</sup> A depraved heart murder refers to killing someone in a way that demonstrates callous disregard for the value of human life (e.g., firing a gun into a crowded room).

<sup>6</sup> Involuntary manslaughter is negligently causing the death of another person. Voluntary manslaughter is intentionally killing another person in the heat of passion and in response to adequate provocation. Differing states may have differing degrees of manslaughter based on their criminal statutes.

<sup>7</sup> *An Overdose Death Is Not Murder; Why Drug-Induced Homicide Laws are Counterproductive and Inhumane*, Drug Policy Alliance (Nov. 2017).

<sup>8</sup> *Drug-Induced Homicide Prosecutions*, Fair and Just Prosecution, <https://fairandjustprosecution.org/wp-content/uploads/2022/07/FJP-Drug-Induced-Homicide-Brief.pdf> (last visited November 28, 2023).

<sup>9</sup> Jennie M. Miller, *Save a Friend's Life or Risk Your Freedom: The Dilemma Too Many People Face When Witnessing An Overdose*, *Journal of Civil Rights and Economic Development* (Volume 34, Summer 2021, Issue 3).

<sup>10</sup> Pew Charitable Trusts (2017), *Letter to The President's Commission on Combating Drug Addiction and the Opioid Crisis RE: The Lack of a Relationship between Drug Imprisonment and Drug Problems*, <https://www.pewtrusts.org/-/media/assets/2017/06/the-lack-of-a-relationship-between-drug-imprisonment-and-drug-problems.pdf>. (Last visited November 28, 2023).

## Recommendation

The Legislature should consider amending the knowledge requirement in MISS. CODE ANN. Section 41-29-139.1 (1972) to increase convictions for fentanyl delivery resulting in death by removing the statute's knowledge requirements. Specifically, the Legislature should consider striking "with knowledge of fentanyl" from the first sentence of MISS. CODE ANN. Section 41-29-139.1 (1).

---

**James F. (Ted) Booth, Executive Director**

Reapportionment

Ben Collins

Administration

Kirby Arinder

Stephanie Harris

Gale Taylor

Quality Assurance and Reporting

Tracy Bobo

Hannah Jane Costilow

Performance Evaluation

Lonnie Edgar, Deputy Director

Jennifer Sebren, Deputy Director

Drew Allen

Emily Cloys

Kim Cummins

Matthew Dry

Matthew Holmes

Drew Johnson

Billy Loper

Debra Monroe

Taylor Mullins

Meri Clare Ringer

Sarah Williamson

Julie Winkeljohn

Ray Wright



**2023 Update of Parker's Law Convictions**

**December 12, 2023**

For more information, contact: (601) 359-1226 | P.O. Box 1204, Jackson, MS 39215-1204

Representative Jerry Turner, Chair | James F. (Ted) Booth, Executive Director