

House Bill 12

By: Representatives Scott of the 76th, Schofield of the 60th, Dukes of the 154th, Mitchell of the 88th, and Hutchinson of the 107th

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to
2 controlled substances, so as to provide that possession of certain quantities of marijuana
3 constitute a misdemeanor; to change provisions relating to punishment; to amend Title 15,
4 Title 16, Chapter 7 of Title 17, and Code Section 36-32-6 of the Official Code of Georgia
5 Annotated, relating to courts, crimes and offenses, pretrial proceedings, and municipal court
6 jurisdiction in marijuana possession cases, respectively, so as to provide for conforming
7 cross-references; to amend Code Section 35-3-33 of the Official Code of Georgia Annotated,
8 relating to powers and duties of the Georgia Crime Information Center generally, so as to
9 revise provisions relating to obtaining fingerprints and other identifying data on persons
10 arrested or taken into custody for misdemeanor marijuana possession; to provide for related
11 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
12 other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled substances, is amended by revising subsection (b) of Code Section 16-13-2, relating to possession of marijuana and conditional discharge for possession of controlled substances as first offense and certain nonviolent property crimes, as follows:

"(b) Notwithstanding any law to the contrary, any person who is charged with possession of marijuana, which possession is of ~~one ounce~~ two ounces or less, shall be guilty of a misdemeanor and punished by ~~imprisonment for a period not to exceed 12 months~~ or a fine not to exceed ~~\$1,000.00, or both, or public works not to exceed 12 months~~ \$300.00."

SECTION 1-2.

Said chapter is further amended by revising paragraph (2) of subsection (j) of Code Section 16-13-30, relating to purchase, possession, manufacture, distribution, or sale of controlled substances or marijuana, as follows:

"(2) Except as otherwise provided in subsection (c) of Code Section 16-13-31 or in Code Section 16-13-2, any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than ~~ten~~ five years."

PART II

SECTION 2-1.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising subsection (b) of Code Section 15-7-4, relating to state court jurisdiction, as follows:

36 "(b) Each state court shall have jurisdiction, within the territorial limits of the county or
37 counties for which it was created and concurrent with other courts having such jurisdiction,
38 over possession of ~~one ounce~~ two ounces or less of marijuana, in accordance with Code
39 Sections 16-13-2 and 16-13-30."

40 **SECTION 2-2.**

41 Said title is further amended by revising paragraph (1) of subsection (a) of Code
42 Section 15-9-30.6, relating to probate court jurisdiction over certain drug and alcohol
43 offenses, as follows:

44 "(1) Possession of ~~one ounce~~ two ounces or less of marijuana, in accordance with Code
45 Sections 16-13-2 and 16-13-30; and"

46 **SECTION 2-3.**

47 Said title is further amended by revising paragraph (1) of subsection (c) of Code
48 Section 15-10-260, relating to magistrate court jurisdiction, as follows:

49 "(1) For possession of ~~less than one ounce~~ two ounces or less of marijuana, as provided
50 in subsection (b) of Code Section 16-13-2;"

51 **SECTION 2-4.**

52 Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled
53 substances, is amended by revising paragraph (2) of subsection (a) of Code Section 16-13-5,
54 relating to immunity from arrest or prosecution for persons seeking medical assistance for
55 drug overdose, as follows:

56 "(2) 'Drug violation' means:

57 (A) A violation of subsection (a) of Code Section 16-13-30 for possession of a
58 controlled substance if the aggregate weight, including any mixture, is less than four
59 grams of a solid substance, less than one milliliter of liquid substance, or if the

60 substance is placed onto a secondary medium with a combined weight of less than four
61 grams;

62 (B) A violation of paragraph (1) of subsection (j) of Code Section 16-13-30 for
63 possession of ~~less than one ounce~~ two ounces or less of marijuana; or

64 (C) A violation of Code Section 16-13-32.2, relating to possession and use of drug
65 related objects."

66 **SECTION 2-5.**

67 Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to pretrial
68 proceedings, is amended by revising Code Section 17-7-72, relating to jurisdiction of probate
69 courts to try certain drug and alcohol offenses, as follows:

70 "17-7-72.

71 In probate courts which have jurisdiction over misdemeanor possession of marijuana in
72 accordance with Code Sections 16-13-2 and 16-13-30 and certain misdemeanor violations
73 of Code Section 3-3-23 pursuant to Code Section 15-9-30.6, the following offenses may
74 be tried upon a summons or citation without an accusation:

75 (1) Possession of ~~one ounce~~ two ounces or less of marijuana, in accordance with Code
76 Sections 16-13-2 and 16-13-30; and

77 (2) Any violation of paragraph (2) of subsection (a) of Code Section 3-3-23 which is
78 punishable as a misdemeanor, but not violations punishable as high and aggravated
79 misdemeanors."

80 **SECTION 2-6.**

81 Code Section 36-32-6 of the Official Code of Georgia Annotated, relating to municipal court
82 jurisdiction in marijuana possession cases, is amended by revising subsections (a) and (c) as
83 follows:

84 "(a) The municipal court of any municipality is granted jurisdiction to try and dispose of
 85 cases where a person is charged with the possession of ~~one ounce~~ two ounces or less of
 86 marijuana if the offense occurred within the corporate limits of such municipality. The
 87 jurisdiction of any such court shall be concurrent with the jurisdiction of any other courts
 88 within the county having jurisdiction to try and dispose of such cases."

89 "(c) Any defendant charged with possession of ~~an ounce~~ two ounces or less of marijuana
 90 in a municipal court shall be entitled on request to have the case against him or her
 91 transferred to the court having general misdemeanor jurisdiction in the county wherein the
 92 alleged offense occurred."

93 PART III

94 SECTION 3-1.

95 Code Section 35-3-33 of the Official Code of Georgia Annotated, relating to powers and
 96 duties of the Georgia Crime Information Center generally, is amended by revising
 97 subparagraph (a)(1)(A) as follows:

- 98 "(A) Have been or are hereafter arrested or taken into custody in this state:
- 99 (i) For an offense which is a felony;
- 100 (ii) For an offense which is a misdemeanor or a violation of an ordinance involving
 101 burglary tools, commercial gambling, dealing in gambling devices, contributing to the
 102 delinquency of a child, dealing in stolen property, dangerous drugs, ~~marijuana~~,
 103 narcotics, firearms, dangerous weapons, explosives, pandering, prostitution, sexual
 104 offenses where children are victims, or worthless checks;
- 105 (iii) For an offense charged as disorderly conduct but which relates to an act
 106 connected with one or more of the offenses under division (ii) of this subparagraph;
- 107 (iv) As a fugitive from justice; or
- 108 (v) For any other offense designated by the Attorney General;"

109

PART IV

110

SECTION 4-1.

111 This Act shall become effective on July 1, 2021, and shall apply to offenses which occur on
112 or after such date. Any offense occurring before July 1, 2021, shall be governed by the law
113 in effect at the time of such offense.

114

SECTION 4-2.

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