

HOUSE BILL 1418

E1

EMERGENCY BILL

8lr3495

By: **Delegates McComas, Adams, Arentz, Corderman, Hornberger, Krebs, Malone,
Morgan, Parrott, Reilly, and Szeliga**

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Distribution of Fentanyl – Penalties**

3 FOR the purpose of altering the penalties for a person who knowingly violates the
4 prohibition against distributing or possessing with intent to distribute certain
5 opioids or a certain mixture of controlled dangerous substances that includes certain
6 opioids; prohibiting a court from imposing less than a certain mandatory minimum
7 penalty under certain circumstances; prohibiting a court from suspending any part
8 of a certain sentence; providing that a certain defendant is not eligible for parole;
9 making this Act an emergency measure; and generally relating to controlled
10 dangerous substances.

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Law
13 Section 5–602
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2017 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Law
18 Section 5–608.1
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2017 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Criminal Law**

24 5–602.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Except as otherwise provided in this title, a person may not:

2 (1) distribute or dispense a controlled dangerous substance; or

3 (2) possess a controlled dangerous substance in sufficient quantity
4 reasonably to indicate under all circumstances an intent to distribute or dispense a
5 controlled dangerous substance.

6 5–608.1.

7 (a) A person may not knowingly violate § 5–602 of this subtitle with:

8 (1) a mixture that contains heroin and a detectable amount of fentanyl or
9 any analogue of fentanyl; or

10 (2) fentanyl or any analogue of fentanyl.

11 (b) (1) A person who violates this section is guilty of a felony and, in addition
12 to any other penalty imposed for a violation of § 5–602 of this subtitle, on conviction is
13 subject to:

14 (I) FOR A FIRST OFFENSE, imprisonment not exceeding [10] 20
15 years OR A FINE NOT EXCEEDING \$50,000 OR BOTH;

16 (II) FOR A SECOND OFFENSE, IMPRISONMENT FOR NOT LESS
17 THAN 20 YEARS AND A FINE OF NOT LESS THAN \$100,000;

18 (III) FOR A THIRD OFFENSE, IMPRISONMENT FOR NOT LESS
19 THAN 30 YEARS AND A FINE OF NOT LESS THAN \$100,000; AND

20 (IV) FOR A FOURTH OR SUBSEQUENT OFFENSE, IMPRISONMENT
21 FOR LIFE AND A FINE OF NOT LESS THAN \$100,000.

22 (2) NOTWITHSTANDING § 14–102 OF THIS ARTICLE, THE COURT MAY
23 NOT IMPOSE LESS THAN THE MANDATORY SENTENCE DESCRIBED IN PARAGRAPH
24 (1)(II), (III), OR (IV) OF THIS SUBSECTION.

25 (3) THE COURT MAY NOT SUSPEND ANY PART OF A MANDATORY
26 SENTENCE DESCRIBED IN PARAGRAPH (1)(II), (III), OR (IV) OF THIS SUBSECTION.

27 (4) EXCEPT AS PROVIDED IN § 4–305 OF THE CORRECTIONAL
28 SERVICES ARTICLE, A PERSON SENTENCED UNDER PARAGRAPH (1)(IV) OF THIS
29 SUBSECTION IS NOT ELIGIBLE FOR PAROLE.

30 (c) A sentence imposed under this section shall be consecutive to and not

1 concurrent with any other sentence imposed under any other provision of law.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
3 measure, is necessary for the immediate preservation of the public health or safety, has
4 been passed by a yea and nay vote supported by three-fifths of all the members elected to
5 each of the two Houses of the General Assembly, and shall take effect from the date it is
6 enacted.