

STATE OF SOUTH CAROLINA  
FOURTEENTH JUDICIAL CIRCUIT

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## Statement regarding Senate Bill 156

The South Carolina General Assembly took the crucial first step in the battle against fentanyl two years ago when it passed the fentanyl trafficking law. The recently passed fentanyl-induced homicide law, on the other hand, fails to provide prosecutors any real tools. It will be rarely used.

The new law states, "A person who knowingly ... provides fentanyl.... commits the felony offense of fentanyl-induced homicide." Though the statute has other problems, the use of the word "knowingly" will make it nearly impossible to prove. "I thought I was selling heroin or OxyContin," will be a standard defense. Pills pressed with fake logos and false identifiers will provide an instant defense. The facts that the drug may be disguised, and that law enforcement must test the drug to confirm it is fentanyl will help in this defense.

At best this new law ensures the status quo. Under no circumstances will it be the game changer some are touting it to be. Unfortunately, it will give grieving parents false hope of holding drug pushers responsible for their kills.

Prosecutors need real tools to stop the fentanyl trade and the accompanying deaths. One such tool is an anti-gang and RICO statute. To stop the infiltration of fentanyl, we must stop the organizations that are distributing it. There are manufacturers, wholesalers and distributors getting this substance into our communities.

We can stop them with a state RICO and gang law. Thirty-three states, including our neighbors North Carolina and Georgia, have these statutes that allow prosecutors to take out entire organizations at once. Without this tool, we must piecemeal prosecutions, charging and prosecuting individuals for individual acts without being able to show the jury their over-arching criminal scheme.

A gang bill is currently in the General Assembly. Unlike the current fentanyl homicide law, its passage would be a game changer.

**Signatories:** Solicitors Duffie Stone (14<sup>th</sup> Circuit), along with David Pascoe (1<sup>st</sup> Circuit); Bill Weeks (2<sup>nd</sup> Circuit); Mike Burch (4<sup>th</sup> Circuit); Byron Gipson (5<sup>th</sup> Circuit); Randy Newman (6<sup>th</sup> Circuit); Barry Barnett (7<sup>th</sup> Circuit); David Stumbo (8<sup>th</sup> Circuit); Scarlett Wilson (9<sup>th</sup> Circuit); Rick Hubbard (11<sup>th</sup> Circuit); Jimmy Richardson (15<sup>th</sup> Circuit); and Kevin Bracket (16<sup>th</sup> Circuit).