



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5491

Introduced 2/15/2012, by Rep. Jim Durkin

#### SYNOPSIS AS INTRODUCED:

720 ILCS 570/414  
720 ILCS 646/115

Amends the Illinois Controlled Substances Act and the Methamphetamine Control and Community Protection Act if and only if Senate Bill 1701 of the 97th General Assembly becomes law in the form as passed with the concurrence of the Senate in House Amendment No. 1 on November 29, 2011. Provides that the limited immunity provided for a person experiencing an overdose shall not be extended unless the person who experienced the overdose enters a substance abuse intervention or treatment program approved by the State's Attorney within 14 days after having experienced the overdose, or as soon as practicable. Effective June 1, 2012.

LRB097 14660 RLC 59553 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. If and only if Senate Bill 1701 of the 97th  
5 General Assembly becomes law in the form as passed with the  
6 concurrence of the Senate in House Amendment No. 1 on November  
7 29, 2011, then the Illinois Controlled Substances Act is  
8 amended by changing Section 414 as follows:

9 (720 ILCS 570/414)

10 Sec. 414. Overdose; limited immunity from prosecution.

11 (a) For the purposes of this Section, "overdose" means a  
12 controlled substance-induced physiological event that results  
13 in a life-threatening emergency to the individual who ingested,  
14 inhaled, injected or otherwise bodily absorbed a controlled,  
15 counterfeit, or look-alike substance or a controlled substance  
16 analog.

17 (b) A person who, in good faith, seeks or obtains emergency  
18 medical assistance for someone experiencing an overdose shall  
19 not be charged or prosecuted for Class 4 felony possession of a  
20 controlled, counterfeit, or look-alike substance or a  
21 controlled substance analog if evidence for the Class 4 felony  
22 possession charge was acquired as a result of the person  
23 seeking or obtaining emergency medical assistance and

1 providing the amount of substance recovered is within the  
2 amount identified in subsection (d) of this Section.

3 (c) A person who is experiencing an overdose shall not be  
4 charged or prosecuted for Class 4 felony possession of a  
5 controlled, counterfeit, or look-alike substance or a  
6 controlled substance analog if evidence for the Class 4 felony  
7 possession charge was acquired as a result of the person  
8 seeking or obtaining emergency medical assistance and  
9 providing the amount of substance recovered is within the  
10 amount identified in subsection (d) of this Section.

11 (d) For the purposes of subsections (b) and (c), the  
12 limited immunity shall only apply to a person possessing the  
13 following amount:

14 (1) less than 3 grams of a substance containing heroin;

15 (2) less than 3 grams of a substance containing  
16 cocaine;

17 (3) less than 3 grams of a substance containing  
18 morphine;

19 (4) less than 40 grams of a substance containing  
20 peyote;

21 (5) less than 40 grams of a substance containing a  
22 derivative of barbituric acid or any of the salts of a  
23 derivative of barbituric acid;

24 (6) less than 40 grams of a substance containing  
25 amphetamine or any salt of an optical isomer of  
26 amphetamine;

1           (7) less than 3 grams of a substance containing  
2           lysergic acid diethylamide (LSD), or an analog thereof;

3           (8) less than 6 grams of a substance containing  
4           pentazocine or any of the salts, isomers and salts of  
5           isomers of pentazocine, or an analog thereof;

6           (9) less than 6 grams of a substance containing  
7           methaqualone or any of the salts, isomers and salts of  
8           isomers of methaqualone;

9           (10) less than 6 grams of a substance containing  
10           phencyclidine or any of the salts, isomers and salts of  
11           isomers of phencyclidine (PCP);

12           (11) less than 6 grams of a substance containing  
13           ketamine or any of the salts, isomers and salts of isomers  
14           of ketamine;

15           (12) less than 40 grams of a substance containing a  
16           substance classified as a narcotic drug in Schedules I or  
17           II, or an analog thereof, which is not otherwise included  
18           in this subsection.

19           (e) The limited immunity described in subsections (b) and  
20           (c) of this Section shall not be extended if law enforcement  
21           has reasonable suspicion or probable cause to detain, arrest,  
22           or search the person described in subsection (b) or (c) of this  
23           Section for criminal activity and the reasonable suspicion or  
24           probable cause is based on information obtained prior to or  
25           independent of the individual described in subsection (b) or  
26           (c) taking action to seek or obtain emergency medical

1 assistance and not obtained as a direct result of the action of  
2 seeking or obtaining emergency medical assistance. Nothing in  
3 this Section is intended to interfere with or prevent the  
4 investigation, arrest, or prosecution of any person for the  
5 delivery or distribution of cannabis, methamphetamine or other  
6 controlled substances, drug-induced homicide, or any other  
7 crime.

8 (f) The limited immunity described in subsection (c) of  
9 this Section shall not be extended unless the person who  
10 experienced the overdose enters a substance abuse intervention  
11 or treatment program approved by the State's Attorney within 14  
12 days after having experienced the overdose, or as soon  
13 thereafter as practicable.

14 (Source: 97SB1701 enrolled.)

15 Section 10. If and only if Senate Bill 1701 of the 97th  
16 General becomes law in the form as passed by the Senate on  
17 November 29, 2011, then the Methamphetamine Control and  
18 Community Protection Act is amended by changing Section 115 as  
19 follows:

20 (720 ILCS 646/115)

21 Sec. 115. Overdose; limited immunity from prosecution.

22 (a) For the purposes of this Section, "overdose" means a  
23 methamphetamine-induced physiological event that results in a  
24 life-threatening emergency to the individual who ingested,

1 inhaled, injected, or otherwise bodily absorbed  
2 methamphetamine.

3 (b) A person who, in good faith, seeks emergency medical  
4 assistance for someone experiencing an overdose shall not be  
5 charged or prosecuted for Class 3 felony possession of  
6 methamphetamine if evidence for the Class 3 felony possession  
7 charge was acquired as a result of the person seeking or  
8 obtaining emergency medical assistance and providing the  
9 amount of substance recovered is less than one gram of  
10 methamphetamine or a substance containing methamphetamine.

11 (c) A person who is experiencing an overdose shall not be  
12 charged or prosecuted for Class 3 felony possession of  
13 methamphetamine if evidence for the Class 3 felony possession  
14 charge was acquired as a result of the person seeking or  
15 obtaining emergency medical assistance and providing the  
16 amount of substance recovered is less than one gram of  
17 methamphetamine or a substance containing methamphetamine.

18 (d) The limited immunity described in subsections (b) and  
19 (c) of this Section shall not be extended if law enforcement  
20 has reasonable suspicion or probable cause to detain, arrest,  
21 or search the person described in subsection (b) or (c) of this  
22 Section for criminal activity and the reasonable suspicion or  
23 probable cause is based on information obtained prior to or  
24 independent of the individual described in subsection (b) or  
25 (c) taking action to seek or obtain emergency medical  
26 assistance and not obtained as a direct result of the action of

1 seeking or obtaining emergency medical assistance. Nothing in  
2 this Section is intended to interfere with or prevent the  
3 investigation, arrest, or prosecution of any person for the  
4 delivery or distribution of cannabis, methamphetamine or other  
5 controlled substances, drug-induced homicide, or any other  
6 crime.

7 (e) The limited immunity described in subsection (c) of  
8 this Section shall not be extended unless the person who  
9 experienced the overdose enters a substance abuse intervention  
10 or treatment program approved by the State's Attorney within 14  
11 days after having experienced the overdose, or as soon  
12 thereafter as practicable.

13 (Source: 97SB1701 enrolled.)

14 Section 99. Effective date. This Act takes effect on June  
15 1, 2012.