



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3229

Introduced 2/11/2020, by Sen. Mattie Hunter

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. Provides that a person who, in good faith, seeks or obtains emergency medical assistance for someone experiencing an overdose or who is experiencing an overdose shall not be arrested, charged, or prosecuted for controlled substance manufacture, delivery, or possession with intent to manufacture or deliver or a possession violation of the Illinois Controlled Substances Act, a drug paraphernalia violation, a methamphetamine delivery or possession violation, a drug-induced homicide violation, or an aggravated battery violation based on unlawfully delivering a controlled substance to another person and any user experiences great bodily harm or permanent disability as a result of the injection, inhalation, or ingestion of any amount of the controlled substance. Provides that these violations must not serve as the sole basis of a violation of parole, mandatory supervised release, probation or conditional discharge, a Department of Children and Family Services investigation, or any seizure of property under any State law authorizing civil forfeiture so long as the evidence for the violation was acquired as a result of the person seeking or obtaining emergency medical assistance in the event of an overdose. Provides that the limited immunity as relates to methamphetamine only applies to possession of less than 3 grams. Provides that nothing in these provisions are intended to interfere with or prevent the investigation, arrest, or prosecution of any person for the delivery or distribution of cannabis, methamphetamine, or other controlled substances, drug-induced homicide, or any other crime if the evidence of the violation is not acquired as a result of the person seeking or obtaining emergency medical assistance in the event of an overdose. Deletes provisions that the limited immunity only applies to Class 4 felony possession of a controlled, counterfeit, or look-alike substance or a controlled substance analog.

LRB101 20254 RLC 69794 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. The Illinois Controlled Substances Act is
5 amended by changing Section 414 as follows:

6 (720 ILCS 570/414)

7 Sec. 414. Overdose; limited immunity ~~from prosecution.~~

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

14 (b) A person who, in good faith, seeks or obtains emergency
15 medical assistance for someone experiencing an overdose shall
16 not be arrested, charged, or prosecuted for a violation of
17 Section 401 or 402 of the Illinois Controlled Substances Act,
18 Section 3.5 of the Drug Paraphernalia Control Act, Section 55
19 or 60 of the Methamphetamine Control and Community Protection
20 Act, Section 9-3.3 of the Criminal Code of 2012, or paragraph
21 (1) of subsection (g) of Section 12-3.05 of the Criminal Code
22 of 2012 ~~Class 4 felony possession of a controlled, counterfeit,~~
23 ~~or look-alike substance or a controlled substance analog if~~

1 evidence for the violation ~~Class 4 felony possession charge~~ was
2 acquired as a result of the person seeking or obtaining
3 emergency medical assistance and providing the amount of
4 substance recovered is within the amount identified in
5 subsection (d) of this Section. The violations listed in this
6 subsection (b) must not serve as the sole basis of a violation
7 of parole, mandatory supervised release, probation, or
8 conditional discharge, a Department of Children and Family
9 Services investigation, or any seizure of property under any
10 State law authorizing civil forfeiture so long as the evidence
11 for the violation was acquired as a result of the person
12 seeking or obtaining emergency medical assistance in the event
13 of an overdose.

14 (c) A person who is experiencing an overdose shall not be
15 arrested, charged, or prosecuted for a violation of Section 401
16 or 402 of the Illinois Controlled Substances Act, Section 3.5
17 of the Drug Paraphernalia Control Act, Section 9-3.3 of the
18 Criminal Code of 2012, or paragraph (1) of subsection (g) of
19 Section 12-3.05 of the Criminal Code of 2012 ~~Class 4 felony~~
20 ~~possession of a controlled, counterfeit, or look-alike~~
21 ~~substance or a controlled substance analog~~ if evidence for the
22 violation ~~Class 4 felony possession charge~~ was acquired as a
23 result of the person seeking or obtaining emergency medical
24 assistance and providing the amount of substance recovered is
25 within the amount identified in subsection (d) of this Section.
26 The violations listed in this subsection (c) must not serve as

1 the sole basis of a violation of parole, mandatory supervised
2 release, probation, or conditional discharge, a Department of
3 Children and Family Services investigation, or any seizure of
4 property under any State law authorizing civil forfeiture so
5 long as the evidence for the violation was acquired as a result
6 of the person seeking or obtaining emergency medical assistance
7 in the event of an overdose.

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

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

12 (2) less than 3 grams of a substance containing
13 cocaine;

14 (3) less than 3 grams of a substance containing
15 morphine;

16 (4) less than 40 grams of a substance containing
17 peyote;

18 (5) less than 40 grams of a substance containing a
19 derivative of barbituric acid or any of the salts of a
20 derivative of barbituric acid;

21 (6) less than 40 grams of a substance containing
22 amphetamine or any salt of an optical isomer of
23 amphetamine;

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

26 (8) less than 6 grams of a substance containing

1 pentazocine or any of the salts, isomers and salts of
2 isomers of pentazocine, or an analog thereof;

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

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

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

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

16 (e) The limited immunity described in subsections (b) and
17 (c) of this Section shall not be extended if law enforcement
18 has reasonable suspicion or probable cause to detain, arrest,
19 or search the person described in subsection (b) or (c) of this
20 Section for criminal activity and the reasonable suspicion or
21 probable cause is based on information obtained prior to or
22 independent of the individual described in subsection (b) or
23 (c) taking action to seek or obtain emergency medical
24 assistance and not obtained as a direct result of the action of
25 seeking or obtaining emergency medical assistance. Nothing in
26 this Section is intended to interfere with or prevent the

1 investigation, arrest, or prosecution of any person for the
2 delivery or distribution of cannabis, methamphetamine or other
3 controlled substances, drug-induced homicide, or any other
4 crime if the evidence of the violation is not acquired as a
5 result of the person seeking or obtaining emergency medical
6 assistance in the event of an overdose.

7 (Source: P.A. 97-678, eff. 6-1-12.)

8 Section 10. The Methamphetamine Control and Community
9 Protection Act is amended by changing Section 115 as follows:

10 (720 ILCS 646/115)

11 Sec. 115. Overdose; limited immunity ~~from prosecution.~~

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

17 (b) A person who, in good faith, seeks emergency medical
18 assistance for someone experiencing an overdose shall not be
19 arrested, charged or prosecuted for a violation of Section 55
20 or 60 of this Act or Section 3.5 of the Drug Paraphernalia
21 Control Act, Section 9-3.3 of the Criminal Code of 2012, or
22 paragraph (1) of subsection (g) of Section 12-3.05 of the
23 Criminal Code of 2012 ~~Class 3 felony possession of~~
24 ~~methamphetamine~~ if evidence for the violation ~~Class 3 felony~~

1 ~~possession charge~~ was acquired as a result of the person
2 seeking or obtaining emergency medical assistance and
3 providing the amount of substance recovered is less than 3
4 grams ~~one gram~~ of methamphetamine or a substance containing
5 methamphetamine. The violations listed in this subsection (b)
6 must not serve as the sole basis of a violation of parole,
7 mandatory supervised release, probation, or conditional
8 discharge, a Department of Children and Family Services
9 investigation, or any seizure of property under any State law
10 authorizing civil forfeiture so long as the evidence for the
11 violation was acquired as a result of the person seeking or
12 obtaining emergency medical assistance in the event of an
13 overdose.

14 (c) A person who is experiencing an overdose shall not be
15 arrested, charged, or prosecuted for a violation of Section 55
16 or 60 of this Act or Section 3.5 of the Drug Paraphernalia
17 Control Act, Section 9-3.3 of the Criminal Code of 2012, or
18 paragraph (1) of subsection (g) of Section 12-3.05 of the
19 Criminal Code of 2012 ~~Class 3 felony possession of~~
20 ~~methamphetamine~~ if evidence for the Class 3 felony possession
21 charge was acquired as a result of the person seeking or
22 obtaining emergency medical assistance and providing the
23 amount of substance recovered is less than one gram of
24 methamphetamine or a substance containing methamphetamine. The
25 violations listed in this subsection (c) must not serve as the
26 sole basis of a violation of parole, mandatory supervised

1 release, probation, or conditional discharge, a Department of
2 Children and Family Services investigation, or any seizure of
3 property under any State law authorizing civil forfeiture so
4 long as the evidence for the violation was acquired as a result
5 of the person seeking or obtaining emergency medical assistance
6 in the event of an overdose.

7 (d) The limited immunity described in subsections (b) and
8 (c) of this Section shall not be extended if law enforcement
9 has reasonable suspicion or probable cause to detain, arrest,
10 or search the person described in subsection (b) or (c) of this
11 Section for criminal activity and the reasonable suspicion or
12 probable cause is based on information obtained prior to or
13 independent of the individual described in subsection (b) or
14 (c) taking action to seek or obtain emergency medical
15 assistance and not obtained as a direct result of the action of
16 seeking or obtaining emergency medical assistance. Nothing in
17 this Section is intended to interfere with or prevent the
18 investigation, arrest, or prosecution of any person for the
19 delivery or distribution of cannabis, methamphetamine or other
20 controlled substances, drug-induced homicide, or any other
21 crime if the evidence of the violation is not acquired as a
22 result of the person seeking or obtaining emergency medical
23 assistance in the event of an overdose.

24 (Source: P.A. 97-678, eff. 6-1-12.)