



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5402

by Rep. Amy Grant - Grant Wehrli - Lindsay Parkhurst

SYNOPSIS AS INTRODUCED:

720 ILCS 570/414

Amends the Controlled Substances Act. Provides that a person who, in good faith, seeks or obtains emergency medical assistance for himself or herself or for someone else experiencing an overdose shall not have his or her mandatory supervised release, parole, or probation revoked, if the evidence for revoking his or her mandatory supervised release, parole, or probation was acquired as a result of seeking or obtaining emergency medical assistance.

LRB101 16846 RLC 66245 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 charged or prosecuted for Class 4 felony possession of a
17 controlled, counterfeit, or look-alike substance or a
18 controlled substance analog, or have his or her mandatory
19 supervised release, parole, or probation revoked, if evidence
20 for the Class 4 felony possession charge, or for revoking his
21 or her mandatory supervised release, parole, or probation, was
22 acquired as a result of the person seeking or obtaining
23 emergency medical assistance and providing the amount of

1 substance recovered is within the amount identified in
2 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, or have his or her mandatory
7 supervised release, parole, or probation revoked, if evidence
8 for the Class 4 felony possession charge, or for revoking his
9 or her mandatory supervised release, parole, or probation, was
10 acquired as a result of the person seeking or obtaining
11 emergency medical assistance and providing the amount of
12 substance recovered is within the amount identified in
13 subsection (d) of this Section.

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

- 17 (1) less than 3 grams of a substance containing heroin;
18 (2) less than 3 grams of a substance containing
19 cocaine;
20 (3) less than 3 grams of a substance containing
21 morphine;
22 (4) less than 40 grams of a substance containing
23 peyote;
24 (5) less than 40 grams of a substance containing a
25 derivative of barbituric acid or any of the salts of a
26 derivative of barbituric acid;

1 (6) less than 40 grams of a substance containing
2 amphetamine or any salt of an optical isomer of
3 amphetamine;

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

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

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

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

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

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

22 (e) The limited immunity described in subsections (b) and
23 (c) of this Section shall not be extended if law enforcement
24 has reasonable suspicion or probable cause to detain, arrest,
25 or search the person described in subsection (b) or (c) of this
26 Section for criminal activity and the reasonable suspicion or

1 probable cause is based on information obtained prior to or
2 independent of the individual described in subsection (b) or
3 (c) taking action to seek or obtain emergency medical
4 assistance and not obtained as a direct result of the action of
5 seeking or obtaining emergency medical assistance. Nothing in
6 this Section is intended to interfere with or prevent the
7 investigation, arrest, or prosecution of any person for the
8 delivery or distribution of cannabis, methamphetamine or other
9 controlled substances, drug-induced homicide, or any other
10 crime.

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