



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3252

Introduced 2/19/2021, by Rep. La Shawn K. Ford

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.

LRB102 13737 KMF 19087 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
11 ingested, inhaled, injected or otherwise bodily absorbed a
12 controlled, counterfeit, or look-alike substance or a
13 controlled substance analog.

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

1 ~~controlled substance analog~~ if evidence for the violation
2 ~~Class 4 felony possession charge~~ was acquired as a result of
3 the person seeking or obtaining emergency medical assistance
4 and providing the amount of substance recovered is within the
5 amount identified in subsection (d) of this Section. The
6 violations listed in this subsection (b) must not serve as the
7 sole basis of a violation of parole, mandatory supervised
8 release, probation, or conditional discharge, a Department of
9 Children and Family Services investigation, or any seizure of
10 property under any State law authorizing civil forfeiture so
11 long as the evidence for the violation was acquired as a result
12 of the person seeking or obtaining emergency medical
13 assistance in the event 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
16 401 or 402 of the Illinois Controlled Substances Act, Section
17 3.5 of the Drug Paraphernalia Control Act, Section 9-3.3 of
18 the Criminal Code of 2012, or paragraph (1) of subsection (g)
19 of 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
26 Section. The violations listed in this subsection (c) must not

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (720 ILCS 646/115)

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

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

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

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

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

1 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
7 assistance in the event of an overdose.

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

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