



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1701

Introduced 2/9/2011, by Sen. John J. Millner

SYNOPSIS AS INTRODUCED:

720 ILCS 570/414 new
720 ILCS 646/115 new

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 shall not be charged or prosecuted for Class 4 felony possession of a controlled, counterfeit, or look-alike substance, a controlled substance analog, or Class 3 felony methamphetamine if evidence for the possession charge was acquired as a result of the person seeking or obtaining emergency medical assistance. Provides that a person who is experiencing an overdose shall not be charged or prosecuted for Class 4 felony possession of a controlled, counterfeit, or look-alike substance, or a controlled substance analog, or in the case of methamphetamine Class 3 felony possession if evidence for the possession charge was acquired as a result of the person seeking or obtaining emergency medical assistance. Provides that the action of seeking or obtaining emergency medical assistance for an overdose may be used as a mitigating factor in a criminal prosecution for Class 3 felony or higher possession, manufacture or delivery of a controlled, counterfeit, or look-alike substance or a controlled substance analog, or in the case of methamphetamine Class 2 felony or higher possession, manufacture or delivery of methamphetamine. Effective immediately.

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1 AN ACT concerning criminal law, which may be referred to as
2 the Emergency Medical Services Access Law.

3 WHEREAS, Drug-overdose deaths are the second leading cause
4 of accidental deaths in the nation and deaths have increased
5 significantly in recent years, in both the Chicago Metropolitan
6 Area and across Illinois; and

7 WHEREAS, The General Assembly finds that drug-overdose
8 deaths could be substantially decreased if immunity from
9 criminal prosecution for Class 4 felony violations of the
10 Illinois Controlled Substances Act and Class 3 felony
11 violations of the Methamphetamine Control and Community
12 Protection Act were granted to a person who, in good faith
13 seeks emergency medical assistance for someone experiencing a
14 drug-related overdose and if this immunity were granted for
15 Class 4 felony violations of the Illinois Controlled Substances
16 Act and Class 3 felony violations of the Methamphetamine
17 Control and Community Protection Act to a person who is
18 experiencing a drug-related overdose; therefore

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

21 Section 5. The Illinois Controlled Substances Act is
22 amended by adding Section 414 as follows:

1 (720 ILCS 570/414 new)

2 Sec. 414. Overdose; immunity from prosecution.

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

9 (b) A person who, in good faith, seeks emergency medical
10 assistance for someone experiencing an overdose shall not be
11 charged or prosecuted for Class 4 felony possession of a
12 controlled, counterfeit, or look-alike substance or a
13 controlled substance analog if evidence for the Class 4 felony
14 possession charge was acquired as a result of the person
15 seeking or obtaining emergency medical assistance.

16 (c) A person who is experiencing an overdose shall not be
17 charged or prosecuted for Class 4 felony possession of a
18 controlled, counterfeit, or look-alike substance or a
19 controlled substance analog if evidence for the Class 4 felony
20 possession charge was acquired as a result of the person
21 seeking or obtaining emergency medical assistance.

22 (d) 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

1 Section for criminal activity and the reasonable suspicion or
2 probable cause is based on information obtained prior to or
3 independent of the individual described in subsection (b) or
4 (c) taking action to seek or obtain emergency medical
5 assistance and not obtained as a direct result of the action of
6 seeking or obtaining emergency medical assistance.

7 (e) The action of seeking or obtaining emergency medical
8 assistance for an overdose may be used as a mitigating factor
9 in a criminal prosecution for Class 3 felony or higher
10 possession, manufacture or delivery of a controlled,
11 counterfeit, or look-alike substance or a controlled substance
12 analog under this Act.

13 Section 10. The Methamphetamine Control and Community
14 Protection Act is amended by adding Section 115 as follows:

15 (720 ILCS 646/115 new)

16 Sec. 115. Overdose; immunity from prosecution.

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

22 (b) A person who, in good faith, seeks emergency medical
23 assistance for someone experiencing an overdose shall not be
24 charged or prosecuted for Class 3 felony possession of

1 methamphetamine if evidence for the Class 3 felony possession
2 charge was acquired as a result of the person seeking or
3 obtaining emergency medical assistance.

4 (c) A person who is 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.

9 (d) The limited immunity described in subsections (b) and
10 (c) of this Section shall not be extended if law enforcement
11 has reasonable suspicion or probable cause to detain, arrest,
12 or search the person described in subsection (b) or (c) of this
13 Section for criminal activity and the reasonable suspicion or
14 probable cause is based on information obtained prior to or
15 independent of the individual described in subsection (b) or
16 (c) taking action to seek or obtain emergency medical
17 assistance and not obtained as a direct result of the action of
18 seeking or obtaining emergency medical assistance.

19 (e) The action of seeking or obtaining emergency medical
20 assistance for an overdose may be used as a mitigating factor
21 in a criminal prosecution for Class 2 felony or higher
22 possession, manufacture or delivery of methamphetamine under
23 this Act.

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.