

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 death 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 possessing a small  
13 amount of the drug who, in good faith, seeks emergency medical  
14 assistance for someone experiencing a drug-related overdose  
15 and if this immunity were granted for the same Class 4 felony  
16 violations of the Illinois Controlled Substances Act and the  
17 Class 3 felony violations of the Methamphetamine Control and  
18 Community Protection Act to a person who is experiencing a  
19 drug-related overdose; therefore

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

22 Section 5. The Illinois Controlled Substances Act is

1 amended by adding Section 414 as follows:

2 (720 ILCS 570/414 new)

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

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

10 (b) A person who, in good faith, seeks or obtains emergency  
11 medical assistance for someone experiencing an overdose shall  
12 not be charged or prosecuted for Class 4 felony possession of a  
13 controlled, counterfeit, or look-alike substance or a  
14 controlled substance analog if evidence for the Class 4 felony  
15 possession charge was acquired as a result of the person  
16 seeking or obtaining emergency medical assistance and  
17 providing the amount of substance recovered is within the  
18 amount identified in subsection (d) of this Section.

19 (c) A person who is experiencing an overdose shall not be  
20 charged or prosecuted for Class 4 felony possession of a  
21 controlled, counterfeit, or look-alike substance or a  
22 controlled substance analog if evidence for the Class 4 felony  
23 possession charge was acquired as a result of the person  
24 seeking or obtaining emergency medical assistance and  
25 providing the amount of substance recovered is within the

1 amount identified in subsection (d) of this Section.

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

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

6 (2) less than 3 grams of a substance containing  
7 cocaine;

8 (3) less than 3 grams of a substance containing  
9 morphine;

10 (4) less than 40 grams of a substance containing  
11 peyote;

12 (5) less than 40 grams of a substance containing a  
13 derivative of barbituric acid or any of the salts of a  
14 derivative of barbituric acid;

15 (6) less than 40 grams of a substance containing  
16 amphetamine or any salt of an optical isomer of  
17 amphetamine;

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

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

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

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

1 phencyclidine or any of the salts, isomers and salts of  
2 isomers of phencyclidine (PCP);

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

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

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

25 Section 10. The Methamphetamine Control and Community

1 Protection Act is amended by adding Section 115 as follows:

2 (720 ILCS 646/115 new)

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

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

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 3 felony possession of  
12 methamphetamine if evidence for the Class 3 felony possession  
13 charge was acquired as a result of the person seeking or  
14 obtaining emergency medical assistance and providing the  
15 amount of substance recovered is less than one gram of  
16 methamphetamine or a substance containing methamphetamine.

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

24 (d) The limited immunity described in subsections (b) and  
25 (c) of this Section shall not be extended if law enforcement

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

14 Section 15. The Unified Code of Corrections is amended by  
15 changing Section 5-5-3.1 as follows:

16 (730 ILCS 5/5-5-3.1) (from Ch. 38, par. 1005-5-3.1)

17 Sec. 5-5-3.1. Factors in Mitigation.

18 (a) The following grounds shall be accorded weight in favor  
19 of withholding or minimizing a sentence of imprisonment:

20 (1) The defendant's criminal conduct neither caused  
21 nor threatened serious physical harm to another.

22 (2) The defendant did not contemplate that his criminal  
23 conduct would cause or threaten serious physical harm to  
24 another.

1 (3) The defendant acted under a strong provocation.

2 (4) There were substantial grounds tending to excuse or  
3 justify the defendant's criminal conduct, though failing  
4 to establish a defense.

5 (5) The defendant's criminal conduct was induced or  
6 facilitated by someone other than the defendant.

7 (6) The defendant has compensated or will compensate  
8 the victim of his criminal conduct for the damage or injury  
9 that he sustained.

10 (7) The defendant has no history of prior delinquency  
11 or criminal activity or has led a law-abiding life for a  
12 substantial period of time before the commission of the  
13 present crime.

14 (8) The defendant's criminal conduct was the result of  
15 circumstances unlikely to recur.

16 (9) The character and attitudes of the defendant  
17 indicate that he is unlikely to commit another crime.

18 (10) The defendant is particularly likely to comply  
19 with the terms of a period of probation.

20 (11) The imprisonment of the defendant would entail  
21 excessive hardship to his dependents.

22 (12) The imprisonment of the defendant would endanger  
23 his or her medical condition.

24 (13) The defendant was mentally retarded as defined in  
25 Section 5-1-13 of this Code.

26 (14) The defendant sought or obtained emergency

1       medical assistance for an overdose and was convicted of a  
2       Class 3 felony or higher possession, manufacture, or  
3       delivery of a controlled, counterfeit, or look-alike  
4       substance or a controlled substance analog under the  
5       Illinois Controlled Substances Act or a Class 2 felony or  
6       higher possession, manufacture or delivery of  
7       methamphetamine under the Methamphetamine Control and  
8       Community Protection Act.

9       (b) If the court, having due regard for the character of  
10      the offender, the nature and circumstances of the offense and  
11      the public interest finds that a sentence of imprisonment is  
12      the most appropriate disposition of the offender, or where  
13      other provisions of this Code mandate the imprisonment of the  
14      offender, the grounds listed in paragraph (a) of this  
15      subsection shall be considered as factors in mitigation of the  
16      term imposed.

17      (Source: P.A. 91-357, eff. 7-29-99.)