



Sen. John J. Millner

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LRB097 00062 RLC 52035 a

1 AMENDMENT TO SENATE BILL 1701

2 AMENDMENT NO. _____. Amend Senate Bill 1701 by replacing
3 the title with the following:

4 "AN ACT concerning criminal law, which may be referred to
5 as the Emergency Medical Services Access Law.

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

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

1 drug-related overdose and if this immunity were granted for
2 Class 4 felony violations of the Illinois Controlled Substances
3 Act and the Class 3 felony violations of the Methamphetamine
4 Control and Community Protection Act to a person who is
5 experiencing a drug-related overdose; therefore"; and

6 by replacing everything after the enacting clause with the
7 following:

8 "Section 5. The Illinois Controlled Substances Act is
9 amended by adding Section 414 as follows:

10 (720 ILCS 570/414 new)

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

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

18 (b) For the purposes of this Section, limited immunity
19 shall only apply to a person possessing an amount of substance
20 not to exceed 20% of the maximum amount listed in paragraph
21 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (10.5), or
22 (11) of subsection (a) of Section 402.

23 (c) A person who, in good faith, seeks or obtains emergency

1 medical assistance for someone experiencing an overdose shall
2 not be charged or prosecuted for Class 4 felony possession of a
3 controlled, counterfeit, or look-alike substance or a
4 controlled substance analog if evidence for the Class 4 felony
5 possession charge was acquired as a result of the person
6 seeking or obtaining emergency medical assistance and
7 providing the amount of substance recovered is less than the
8 amount identified in subsection (b) of this Section.

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

17 (e) The limited immunity described in subsections (c) and
18 (d) of this Section shall not be extended if law enforcement
19 has reasonable suspicion or probable cause to detain, arrest or
20 search the person described in subsection (c) or (d) 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 (c) or
24 (d) 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.

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

8 (720 ILCS 646/115 new)

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

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

15 (b) For the purposes of this Section, limited immunity
16 shall only apply to a person possessing an amount of substance
17 not to exceed 20% of the maximum amount listed in or paragraph
18 (1) of subsection (b) of Section 60.

19 (c) A person who, in good faith, seeks emergency medical
20 assistance for someone experiencing an overdose shall not be
21 charged or prosecuted for Class 3 felony possession of
22 methamphetamine if evidence for the Class 3 felony possession
23 charge was acquired as a result of the person seeking or
24 obtaining emergency medical assistance and providing the

1 amount of substance recovered is less than the amount
2 identified in subsection (b) of this Section.

3 (d) A person who is experiencing an overdose shall not be
4 charged or prosecuted for Class 3 felony possession of
5 methamphetamine if evidence for the Class 3 felony possession
6 charge was acquired as a result of the person seeking or
7 obtaining emergency medical assistance and providing the
8 amount of substance recovered is less than the amount
9 identified in subsection (b) of this Section.

10 (e) The limited immunity described in subsections (c) and
11 (d) 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 (c) or (d) 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 (c) or
17 (d) 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 15. The Unified Code of Corrections is amended by

1 changing Section 5-5-3.1 as follows:

2 (730 ILCS 5/5-5-3.1) (from Ch. 38, par. 1005-5-3.1)

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

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

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

8 (2) The defendant did not contemplate that his criminal
9 conduct would cause or threaten serious physical harm to
10 another.

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

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

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

17 (6) The defendant has compensated or will compensate
18 the victim of his criminal conduct for the damage or injury
19 that he sustained.

20 (7) The defendant has no history of prior delinquency
21 or criminal activity or has led a law-abiding life for a
22 substantial period of time before the commission of the
23 present crime.

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

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

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

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

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

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

11 (14) The defendant sought or obtained emergency
12 medical assistance for an overdose and was convicted of a
13 Class 3 felony or higher possession, manufacture, or
14 delivery of a controlled, counterfeit, or look-alike
15 substance or a controlled substance analog under the
16 Illinois Controlled Substances Act or a Class 2 felony or
17 higher possession, manufacture or delivery of
18 methamphetamine under the Methamphetamine Control and
19 Community Protection Act.

20 (b) If the court, having due regard for the character of
21 the offender, the nature and circumstances of the offense and
22 the public interest finds that a sentence of imprisonment is
23 the most appropriate disposition of the offender, or where
24 other provisions of this Code mandate the imprisonment of the
25 offender, the grounds listed in paragraph (a) of this
26 subsection shall be considered as factors in mitigation of the

1 term imposed.

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

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".