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# SENATE BILL No. 418

Proposed Changes to introduced printing by AM041801

## DIGEST OF PROPOSED AMENDMENT

Exemptions. Exempts from the immunity and nonarrest provisions for drug overdoses a person who provided illegal drugs to the individual requiring emergency medical assistance.

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 7.1-5-1-6.5, AS AMENDED BY P.L.156-2014,
- 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2023]: Sec. 6.5. (a) A law enforcement officer may not take
- 4 a person into custody based solely on the commission of an offense
- 5 involving alcohol described in subsection (b) if the law enforcement
- 6 officer, after making a reasonable determination and considering the
- 7 facts and surrounding circumstances, reasonably believes that all of the
- 8 following apply:
- 9 (1) The law enforcement officer has contact with the person
- 10 because the person:
- 11 (A) either:
- 12 (i) requested emergency medical assistance; or
- 13 (ii) acted in concert with another person who requested
- 14 emergency medical assistance;
- 15 for an individual who reasonably appeared to be in need of
- 16 medical assistance;
- 17 (B) is the victim of a reported sex offense (as defined in
- 18 IC 11-8-8-5.2); or
- 19 (C) witnessed and reported what the person reasonably
- 20 believed to be a crime.

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- 1 (2) The person described in subdivision (1)(A), (1)(B), or (1)(C):
- 2 (A) provided:
- 3 (i) the person's full name; and
- 4 (ii) any other relevant information requested by the law
- 5 enforcement officer; and
- 6 (B) in the case of a person described in subdivision (1)(A):
- 7 (i) remained at the scene with the individual who
- 8 reasonably appeared to be in need of medical
- 9 assistance until emergency medical assistance arrived;
- 10 and
- 11 (ii) cooperated with emergency medical assistance
- 12 personnel and law enforcement officers at the scene.
- 13 (b) A person who meets the criteria of subsection (a)(1) and (a)(2)
- 14 **or who is the person for whom emergency medical assistance was**
- 15 **requested** is immune from criminal prosecution for an offense under:
- 16 (1) section 3 of this chapter if the offense involved a state of
- 17 intoxication caused by the person's use of alcohol;
- 18 (2) section 6 of this chapter if the offense involved the person
- 19 being, or becoming, intoxicated as a result of the person's use of
- 20 alcohol; and
- 21 (3) IC 7.1-5-7-7.
- 22 (c) A person may not initiate or maintain an action against a law
- 23 enforcement officer based on the officer's compliance or failure to
- 24 comply with this section.
- 25 SECTION 2. IC 16-42-27-2, AS AMENDED BY P.L.80-2019,
- 26 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 27 JULY 1, 2023]: Sec. 2. (a) A prescriber may, directly or by standing
- 28 order, prescribe or dispense an overdose intervention drug without
- 29 examining the individual to whom it may be administered if all of the
- 30 following conditions are met:
- 31 (1) The overdose intervention drug is dispensed or prescribed to:
- 32 (A) a person at risk of experiencing an opioid-related
- 33 overdose; or
- 34 (B) a family member, a friend, or any other individual or
- 35 entity in a position to assist an individual who, there is
- 36 reason to believe, is at risk of experiencing an
- 37 opioid-related overdose.
- 38 (2) The prescriber instructs the individual receiving the overdose
- 39 intervention drug or prescription to summon emergency services
- 40 either immediately before or immediately after administering the
- 41 overdose intervention drug to an individual experiencing an
- 42 opioid-related overdose.

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- 1 (3) The prescriber provides education and training on drug
- 2 overdose response and treatment, including the administration of
- 3 an overdose intervention drug.
- 4 (4) The prescriber provides drug addiction treatment information
- 5 and referrals to drug treatment programs, including programs in
- 6 the local area and programs that offer medication assisted
- 7 treatment that includes a federal Food and Drug Administration
- 8 approved long acting, nonaddictive medication for the treatment
- 9 of opioid or alcohol dependence.
- 10 (b) A prescriber may provide a prescription of an overdose
- 11 intervention drug to an individual as a part of the individual's addiction
- 12 treatment plan.
- 13 (c) An individual described in subsection (a)(1) may administer an
- 14 overdose intervention drug to an individual who is suffering from an
- 15 overdose.
- 16 (d) An individual described in subsection (a)(1) may not be
- 17 considered to be practicing medicine without a license in violation of
- 18 IC 25-22.5-8-2, if the individual, acting in good faith, does the
- 19 following:
- 20 (1) Obtains the overdose intervention drug from a prescriber or
- 21 entity acting under a standing order issued by a prescriber.
- 22 (2) Administers the overdose intervention drug to an individual
- 23 who is experiencing an apparent opioid-related overdose.
- 24 (3) Attempts to summon emergency services either immediately
- 25 before or immediately after administering the overdose
- 26 intervention drug.
- 27 (e) An entity acting under a standing order issued by a prescriber
- 28 must do the following:
- 29 (1) Annually register with either the:
- 30 (A) state department; or
- 31 (B) local health department in the county where services
- 32 will be provided by the entity;
- 33 in a manner prescribed by the state department.
- 34 (2) Provide education and training on drug overdose response
- 35 and treatment, including the administration of an overdose
- 36 intervention drug.
- 37 (3) Provide drug addiction treatment information and referrals to
- 38 drug treatment programs, including programs in the local area
- 39 and programs that offer medication assisted treatment that
- 40 includes a federal Food and Drug Administration approved long
- 41 acting, nonaddictive medication for the treatment of opioid or
- 42 alcohol dependence.

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- 1 (4) Submit an annual report to the state department containing:  
 2 (A) the number of sales of the overdose intervention drug  
 3 dispensed;  
 4 (B) the dates of sale of the overdose intervention drug  
 5 dispensed; and  
 6 (C) any additional information requested by the state  
 7 department.
- 8 (f) The state department shall ensure that a statewide standing  
 9 order for the dispensing of an overdose intervention drug in Indiana is  
 10 issued under this section. The state health commissioner or a  
 11 designated public health authority who is a licensed prescriber may, as  
 12 part of the individual's official capacity, issue a statewide standing  
 13 order that may be used for the dispensing of an overdose intervention  
 14 drug under this section. The immunity provided in IC 34-13-3-3 applies  
 15 to an individual described in this subsection.
- 16 (g) [This subsection does not apply to an individual who  
 17 provides illegal drugs to the individual who requires emergency  
 18 medical assistance.] A law enforcement officer may not take an  
 19 individual into custody based solely on the commission of an offense  
 20 described in subsection (h), if the law enforcement officer, after  
 21 making a reasonable determination and considering the facts and  
 22 surrounding circumstances, reasonably believes that the individual  
 23 **performed the following actions:**
- 24 (1) **Satisfied either of the following conditions:**
- 25 (A) **The individual:**
- 26 (i) obtained the overdose intervention drug as  
 27 described in subsection (a)(1);  
 28 ~~(2)~~ (ii) complied with the provisions in subsection (d);  
 29 **and**  
 30 ~~(3)~~ (iii) administered an overdose intervention drug to  
 31 an individual who appeared to be experiencing an  
 32 opioid-related overdose.
- 33 (B) **The individual:**
- 34 (i) **requested emergency medical assistance; or**  
 35 (ii) **acted in concert with another individual who**  
 36 **requested emergency medical assistance;**  
 37 **for an individual who reasonably appeared to be in need**  
 38 **of medical assistance.**
- 39 ~~(4)~~ (2) **Provided:**
- 40 (A) the individual's full name; and  
 41 (B) any other relevant information requested by the law  
 42 enforcement officer.

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1           ~~(5)~~ (3) Remained at the scene with the individual who  
 2           reasonably appeared to be in need of medical assistance until  
 3           emergency medical assistance arrived.

4           ~~(6)~~ (4) Cooperated with emergency medical assistance personnel  
 5           and law enforcement officers at the scene. ~~and~~

6           ~~(7)~~ (5) Came into contact with law enforcement because the  
 7           individual requested emergency medical assistance for another  
 8           individual who appeared to be experiencing an opioid-related  
 9           overdose.

10           (h) An individual who meets the criteria in subsection (g) **or an**  
 11           **individual who was administered an overdose intervention drug or**  
 12           **needed emergency medical assistance** is immune from criminal  
 13           prosecution for the following[, **unless the individual provided illegal**  
 14           **drugs to the individual who requires emergency medical**  
 15           **assistance**]:[]

16           (1) IC 35-48-4-6 (possession of cocaine).

17           (2) IC 35-48-4-6.1 (possession of methamphetamine).

18           (3) IC 35-48-4-7 (possession of a controlled substance).

19           (4) IC 35-48-4-8.3 (possession of paraphernalia).

20           (5) IC 35-48-4-11 (possession of marijuana).

21           (6) An offense under IC 35-48-4 involving possession of a  
 22           synthetic drug (as defined in IC 35-31.5-2-321), possession of a  
 23           controlled substance analog (as defined in IC 35-48-1-9.3), or  
 24           possession of a substance represented to be a controlled  
 25           substance (as described in IC 35-48-4-4.6).

26           SECTION 3. IC 35-38-1-7.1, AS AMENDED BY P.L.5-2019,  
 27           SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28           JULY 1, 2023]: Sec. 7.1. (a) In determining what sentence to impose  
 29           for a crime, the court may consider the following aggravating  
 30           circumstances:

31           (1) The harm, injury, loss, or damage suffered by the victim of  
 32           an offense was:

33           (A) significant; and

34           (B) greater than the elements necessary to prove the  
 35           commission of the offense.

36           (2) The person has a history of criminal or delinquent behavior.

37           (3) The victim of the offense was less than twelve (12) years of  
 38           age or at least sixty-five (65) years of age at the time the person  
 39           committed the offense.

40           (4) The person:

41           (A) committed a crime of violence (IC[]35-50-1-2); and

42           (B) knowingly committed the offense in the presence or



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- 1 within hearing of an individual who:
- 2 (i) was less than eighteen (18) years of age at the time
- 3 the person committed the offense; and
- 4 (ii) is not the victim of the offense.
- 5 (5) The person violated a protective order issued against the
- 6 person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or
- 7 IC 34-4-5.1 before their repeal), a workplace violence restraining
- 8 order issued against the person under IC 34-26-6, or a no contact
- 9 order issued against the person.
- 10 (6) The person has recently violated the conditions of any
- 11 probation, parole, pardon, community corrections placement, or
- 12 pretrial release granted to the person.
- 13 (7) The victim of the offense was:
- 14 (A) a person with a disability (as defined in IC 27-7-6-12),
- 15 and the defendant knew or should have known that the
- 16 victim was a person with a disability; or
- 17 (B) mentally or physically infirm.
- 18 (8) The person was in a position having care, custody, or control
- 19 of the victim of the offense.
- 20 (9) The injury to or death of the victim of the offense was the
- 21 result of shaken baby syndrome (as defined in IC 16-41-40-2).
- 22 (10) The person threatened to harm the victim of the offense or
- 23 a witness if the victim or witness told anyone about the offense.
- 24 (11) The person:
- 25 (A) committed trafficking with an inmate under
- 26 IC 35-44.1-3-5; and
- 27 (B) is an employee of the penal facility.
- 28 (12) The person committed the offense with bias due to the
- 29 victim's or the group's real or perceived characteristic, trait,
- 30 belief, practice, association, or other attribute the court chooses
- 31 to consider, including but not limited to an attribute described in
- 32 IC 10-13-3-1.
- 33 (b) The court may consider the following factors as mitigating
- 34 circumstances or as favoring suspending the sentence and imposing
- 35 probation:
- 36 (1) The crime neither caused nor threatened serious harm to
- 37 persons or property, or the person did not contemplate that it
- 38 would do so.
- 39 (2) The crime was the result of circumstances unlikely to recur.
- 40 (3) The victim of the crime induced or facilitated the offense.
- 41 (4) There are substantial grounds tending to excuse or justify the
- 42 crime, though failing to establish a defense.

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- 1 (5) The person acted under strong provocation.  
 2 (6) The person has no history of delinquency or criminal activity,  
 3 or the person has led a law-abiding life for a substantial period  
 4 before commission of the crime.  
 5 (7) The person is likely to respond affirmatively to probation or  
 6 short term imprisonment.  
 7 (8) The character and attitudes of the person indicate that the  
 8 person is unlikely to commit another crime.  
 9 (9) The person has made or will make restitution to the victim of  
 10 the crime for the injury, damage, or loss sustained.  
 11 (10) Imprisonment of the person will result in undue hardship to  
 12 the person or the dependents of the person.  
 13 (11) The person was convicted of a crime involving the use of  
 14 force against a person who had repeatedly inflicted physical or  
 15 sexual abuse upon the convicted person and evidence shows that  
 16 the convicted person suffered from the effects of battery as a  
 17 result of the past course of conduct of the individual who is the  
 18 victim of the crime for which the person was convicted.  
 19 (12) The person was convicted of a crime relating to **alcohol or [**  
 20 **]**a controlled substance and the person's arrest or prosecution  
 21 was facilitated in part because the person:  
 22 (A) requested emergency medical assistance; or  
 23 (B) acted in concert with another person who requested  
 24 emergency medical assistance;  
 25 for an individual who reasonably appeared to be in need of  
 26 medical assistance due to the use of alcohol or a controlled  
 27 substance.  
 28 (13) The person has posttraumatic stress disorder, traumatic  
 29 brain injury, or a postconcussive brain injury.  
 30 **(14) The person was convicted of a crime relating to the**  
 31 **possession of alcohol or a controlled substance and the**  
 32 **person's arrest or prosecution was facilitated in part because**  
 33 **another person requested emergency medical assistance for**  
 34 **the person.**  
 35 (c) The criteria listed in subsections (a) and (b) do not limit the  
 36 matters that the court may consider in determining the sentence.  
 37 (d) A court may impose any sentence that is:  
 38 (1) authorized by statute; and  
 39 (2) permissible under the Constitution of the State of Indiana;  
 40 regardless of the presence or absence of aggravating circumstances or  
 41 mitigating circumstances.  
 42 (e) If a court suspends a sentence and orders probation for a person

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1 described in subsection (b)(13), the court may require the person to  
2 receive treatment for the person's injuries. [  
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