



HARM REDUCTION LEGAL PROJECT  
**50-State Survey**

## Legal Interventions to Reduce Overdose Mortality: Overdose Good Samaritan Laws

### Background


Drug overdose is a nationwide epidemic that claimed the lives of nearly 107,000 people in the United States in 2021.<sup>1</sup> Opioids were involved in approximately 80% of these deaths.<sup>2</sup> Opioid overdose is reversible through the timely administration of naloxone and, where needed, the provision of other emergency care.<sup>3</sup> Individuals experiencing overdose caused by non-opioid drugs also benefit from the quick provision of emergency medical care.

However, people who witness an overdose are often afraid to call for help because emergency medical services (EMS) responders are often accompanied by law enforcement officers, and many aspects of the use of controlled substances in the United States remain illegal.<sup>4</sup> Once recent study found that approximately one in ten EMS-attended overdose responses in Indianapolis resulted in incarceration,<sup>5</sup> and a nationwide study found that approximately one in five law enforcement agencies reported incarcerating overdose victims to jail after responding to an overdose call. Many individuals therefore fear that alerting EMS to an overdose might result in themselves, the person overdosing, or both being arrested or prosecuted for possession of illegal drugs, drug paraphernalia, violation of probation, or other crimes.<sup>6</sup> They may also fear non-criminal consequences such as loss of housing or the involvement of child welfare authorities, as well as mistreatment at the hands of law enforcement officers.<sup>7</sup>

To encourage bystanders to summon emergency medical assistance during an overdose, most states have enacted overdose Good Samaritan legislation that provides limited immunity to individuals who do so as well as, in most cases, the person who overdosed. Studies on the impact of these laws are mixed, with some finding a protective effect but while others report no significant impact on overdose mortality.<sup>8</sup> Recent research suggests that overdose Good Samaritan laws that provide protection from arrest are more effective than those that provide protection only from charge or prosecution.<sup>9</sup>

### Overdose Good Samaritan law legal landscape

This survey has been updated numerous times since it was first released in 2014; this version presents the state of the law as of May 1, 2023. As of that date, 48 states and the District of Columbia have enacted at least one overdose Good Samaritan law. In general, overdose Good Samaritan laws have become more numerous



and provided more protection over time. Unfortunately, we also find that most continue to provide very limited carveouts to otherwise applicable criminal laws.

It is therefore not surprising that the impact of these laws on reducing overdose deaths has been limited. The criminalization of people who use drugs and people experiencing homelessness creates a reality in which many people who might be nudged to call for emergency assistance in an overdose by the presence of a comprehensive overdose Good Samaritan law may be susceptible to arrest and prosecution under most current laws, which generally limit their protection to minor drug crimes. Not only do they not extend to more serious drug-related crimes; they also do not provide protection from other laws criminalizing poverty such as trespassing, loitering, vagrancy, and public intoxication. Most also do not provide protection from outstanding warrants, a common concern among people who use drugs.

One state, however, has adopted a more comprehensive Good Samaritan law. In August 2022, Maine modified its overdose Good Samaritan law to make immunity the default, not the exception. Under Maine's new law, a protected person – someone “who in good faith calls for assistance for another person experiencing a suspected drug-related overdose, any person rendering aid at the location of the suspected drug-related overdose and any person who is experiencing a suspected drug-related overdose” is immune from arrest and prosecution for all but certain enumerated crimes.<sup>10</sup>

While the list of excluded crimes appears lengthy at first glance, encompassing 21 separate statutes, in practice few would generally apply in the context of a call for help in an overdose.<sup>11</sup> None are crimes of poverty or other low-level crimes that are often of concern to people who use drugs. In our view, this approach is more compatible with the expressed aim of these laws: to save lives by ensuring that individuals know that the state views the provision of emergency care as more important than arresting and incarcerating the individual who overdosed and those who seek help for them. We encourage other states to follow Maine's lead.

The table below provides information on the overdose Good Samaritan law in each state as of March 15, 2023. Each column displays whether the law in each state provides protection from arrest, charge, and prosecution for both controlled substance possession and paraphernalia possession. They then display whether the law provides protection from protective or restraining orders, probation or parole violations, and other crimes. Finally, the columns display whether the law provides that reporting an overdose can be a mitigating factor in sentencing for crimes for which immunity is not provided and whether the law provides other protections, such as from civil asset forfeiture.<sup>12</sup>

This table covers laws that provide protection in the case of drug overdose only. It does not include laws or provisions specific to alcohol overdose. Extensive footnotes provide additional information on the specifics of each state's law. The provisions for which information are provided were selected because they are the most prevalent; they are not intended to suggest best practices. For the purposes of brevity, the following abbreviations are used throughout the table: “LE” = Law Enforcement; “LEO” = Law Enforcement Officer; “OD” = Overdose; “ID” = Identification; “EMS” = Emergency Medical Services; “CS” = Controlled Substances.

## Conclusion

As with most public health issues, there is no magic bullet to preventing overdose deaths. A comprehensive solution that includes increased access to evidence-based treatment, de-stigmatization of people who use drugs, and de-criminalization of substance use disorder is necessary to create large-scale, lasting change. In the meantime, states should consider adopting broad overdose Good Samaritan laws that provide protection from arrest for all or nearly all crimes.

## Characteristics of state overdose Good Samaritan laws

As of May 1, 2023

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
AL	<a href="#">Ala. Code § 20-2-281(b)</a>	June 8, 2015	-	Seeker for others	<ul style="list-style-type: none"> <li>- LE<sup>14</sup> became aware of offense solely because individual sought medical assistance for another</li> <li>- Must act in good faith on reasonable belief that they are the first to seek assistance</li> <li>- Must use own name when contacting authorities</li> <li>- Must remain w/ individual needing medical assistance until help arrives</li> </ul>	Prosecution (misdemeanor amounts) <sup>15</sup>	Prosecution <sup>16</sup>	-	All misdemeanor CS offenses except DUI <sup>17</sup>	-
AK	<a href="#">Alaska Stat. § 11.71.31 1</a>  <a href="#">Alaska Stat. § 12.55.15 5(d)(19) (mitigation)</a>	Sept. 8, 2008 <sup>18</sup>	July 9, 2019 <sup>19</sup>	Seeker for self  Seeker for others	<p><b>Seeker for others:</b></p> <ul style="list-style-type: none"> <li>- Seek, in good faith, medical or LE assistance for another person the seeker reasonably believed to be experiencing drug OD<sup>20</sup></li> <li>- Evidence supporting prosecution obtained as a result of seeking medical or LE assistance</li> <li>- Must remain at the scene until medical or LE assistance arrives</li> <li>- Must cooperate with responders, provide ID</li> </ul> <p><b>Seeker for self:</b></p> <ul style="list-style-type: none"> <li>- Sought medical assistance while experiencing OD</li> </ul>	Prosecution <sup>21</sup>  (Any amount, possession of some substances in school zone)	.22	-	Use or display of CS <sup>23</sup>	✓ <sup>24</sup>

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					- Evidence supporting prosecution obtained as result of OD and need for medical assistance					
AZ	<a href="#">Ariz. Rev. Stat. § 13-3423</a>	Apr. 26, 2018 <sup>25</sup>	-	Seeker for self <sup>26</sup>  Seeker for others  Person experiencing OD	- Seeks, in good faith, medical assistance for someone experiencing a drug-related OD, OR is person who experiences OD, is in need of medical assistance, and for whom medical assistance is sought <sup>27</sup>  - Evidence was gained as result of seeking medical assistance	Charge, prosecution (any amount) <sup>28</sup>	Charge, prosecution <sup>29</sup>	-	- Preparatory offense of covered crime  - Use of CS or paraphernalia	✓ <sup>30</sup>
AR	<a href="#">Ark. Code. § 20-13-1701 et seq.</a>	July 22, 2015	-	Seeker for self  Seeker for others	- Person in good faith seeks medical assistance for another who is experiencing OD, OR person experiencing OD in good faith seeks medical assistance for himself/herself <sup>31</sup>  - Evidence gained solely as result of seeking assistance	Arrest, charge, prosecution (any amount) <sup>32</sup>	-	✓ <sup>33</sup>	Violation of protective or restraining order	-
CA	<a href="#">Cal. Health &amp; Safety Code § 11376.5</a>	Jan. 1, 2013	-	Seeker for self  Seeker for others <sup>34</sup>	<b>Seeker:</b> - Seeks medical assistance in good faith for another person experiencing a drug-related OD <sup>35</sup> that is related to the offense AND - Seeker does not obstruct medical or LE personnel  <b>Person experiencing OD:</b>	"It shall not be a crime" to possess a CS or CS analog for personal use <sup>36</sup>	"It shall not be a crime" to possess drug paraphernalia for personal use <sup>37</sup>	-	Be under the influence of CS or CS analog <sup>38</sup>	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
				Person experiencing OD	<ul style="list-style-type: none"> <li>- Experiences drug-related OD and is in need of medical assistance</li> <li>- They or “one or more other persons at the scene” seek medical assistance in good faith</li> </ul>					
CO	<a href="#">Colo. Rev. Stat. § 18-1-711</a>	May 29, 2012	July 1, 2022 <sup>39</sup>	Seeker for self <sup>40</sup>  Seeker for others  Person experiencing OD	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Reports OD in good faith to LEO, 911, or medical provider<sup>41</sup></li> <li>- Remains at scene until LEO or EMS arrives OR remains at medical provider until LEO arrives</li> <li>- IDs self to and cooperates with LEO, EMS, or medical provider AND</li> <li>- Offense arises from same course of events from which OD arose</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Only if all conditions above are met</li> </ul>	Arrest and prosecution (any amount of CS; various amounts of marijuana) <sup>42</sup>	Arrest and prosecution <sup>43</sup>	-	<ul style="list-style-type: none"> <li>- Use of CS</li> <li>- Display or use of marijuana</li> <li>- Various marijuana, synthetic cannabinoid, and salvia divinorum-related crimes</li> <li>- Unlawful distribution, manufacturing, dispensing, or sale of certain substances</li> </ul>	-
CT	<a href="#">Conn. Gen. Stat. § 21a-267(d)</a>  <a href="#">Conn. Gen. Stat. §</a>	Oct. 1, 2011	-	Seeker for self  Seeker for others	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- In good faith seeks medical assistance for another person who they reasonably believe to be experiencing OD OR person who reasonably believes he/she is experiencing OD who in good faith seeks medical assistance for himself/herself<sup>45</sup></li> </ul>	Prohibitions on CS possession “shall not apply” <sup>46</sup>	Prohibitions on paraphernalia possession “shall not apply” <sup>47</sup>	-	Use of paraphernalia <sup>48</sup>	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
	<a href="#">21a-279(d)</a> <sup>44</sup>			Person experiencing OD	<ul style="list-style-type: none"> <li>- Evidence of the violation was obtained as a result of the seeking of medical assistance</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- For whom another person, in good faith, seeks medical assistance reasonably believing such person is experiencing an OD from any substance</li> <li>- Evidence of the violation was obtained as a result of the seeking of medical assistance</li> </ul>					
DC	<a href="#">D.C. Code § 7-403</a>	Mar. 19, 2013	_49	Seeker for self  Seeker for Others  Person experiencing OD	<p><b>Seeker for others:</b><sup>50</sup></p> <ul style="list-style-type: none"> <li>- Reasonably believes that another person is experiencing OD and in good faith seeks healthcare for that person</li> </ul> <p><b>Seeker for self:</b></p> <ul style="list-style-type: none"> <li>- Reasonably believes that they are experiencing OD and in good faith seeks healthcare for himself/herself</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Reasonably believed to be experiencing OD and for whom health care is sought</li> </ul> <p><b>All:</b></p> <ul style="list-style-type: none"> <li>- Offense for which immunity is sought “arises from the same circumstances as the seeking of health care”</li> </ul>	CS possession offenses “shall not be considered crimes” <sup>51</sup>	Paraphernalia possession offenses “shall not be considered crimes” <sup>52</sup>	✓ <sup>53</sup>	Use or possession w/ intent to use paraphernalia	✓ <sup>54</sup>
DE	<a href="#">Del. Code tit. 16, § 4769</a>	Aug. 31, 2013	-		<ul style="list-style-type: none"> <li>- Person who is experiencing OD and anyone (including person experiencing emergency) seeking medical attention who reports in good faith to LE, 911 system,</li> </ul>	Arrest, charge, and prosecution	Arrest, charge, and prosecution <sup>57</sup>	✓ <sup>58</sup>	“all offenses in this chapter that are not class	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
				<p>Seeker for self</p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p>poison control center, or a medical provider, or if the person assists someone reporting in good faith</p> <p>- Person provides all relevant medical information as to the cause of the OD that the person possesses, either at the scene or at the medical provider's facility<sup>55</sup></p>	(misd. amount) <sup>56</sup>			A, B, or C felonies <sup>59</sup>	
FL	<p><a href="#">Fla. Stat. § 893.21</a></p> <p><a href="#">Fla. Stat. § 921.0026 (2)(n) (mitigation)</a></p>	Oct. 1, 2012	July 1, 2019 <sup>60</sup>	<p>Seeker for self</p> <p>Seeker for others</p> <p>Person experiencing OD (pretrial, probation, or parole only)<sup>61</sup></p>	<p><b>Seeker:</b></p> <p>- In good faith seeks medical assistance for an individual experiencing or believed to be experiencing OD</p> <p>- Evidence was obtained as a result of person's seeking medical assistance</p> <p><b>Person experiencing OD:</b></p> <p>- Person who experiences, or has good faith belief that they're experiencing, OD and is in need of medical assistance</p> <p>- Evidence was obtained as a result of person's seeking medical assistance</p>	<p>Arrest, charge prosecution, and penalty (all CS except 10 grams or more of most schedule 1 and some schedule 2 substances)<sup>62</sup></p>	<p>Arrest, charge, prosecution and penalty<sup>63</sup></p>	✓ <sup>64</sup>	<p>Use of drug paraphernalia</p>	✓ <sup>65</sup>

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
GA	<a href="#">Ga. Code Ann. § 16-13-5</a>	Apr. 24, 2014	-	<p>Seeker for self</p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p>- In good faith seeks medical assistance<sup>66</sup> for a person experiencing or believed to be experiencing OD<sup>67</sup> OR is a person who is experiencing OD and in good faith seeks medical assistance, or is subject of such a request</p> <p>- Evidence gained as result of seeking medical assistance</p>	Arrest, charge, and prosecution (various amounts) <sup>68</sup>	Arrest, charge, and prosecution <sup>69</sup>	✓ <sup>70</sup>	<p>- Use of drug-related objects</p> <p>- Protective or restraining orders<sup>71</sup></p>	-
HI	<a href="#">Haw. Rev. Stat. § 329-43.6</a>	July 7, 2015	-	<p>Seeker for self</p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p>- Person in good faith seeks medical assistance for someone who is experiencing OD<sup>72</sup> OR person experiencing OD in good faith seeks medical assistance for himself/herself OR is the subject of such good faith request<sup>73</sup></p> <p>- Evidence gained as result of seeking medical assistance</p>	Arrest, charge, prosecution, conviction, "otherwise be penalized" <sup>74</sup>	Arrest, charge, prosecution, conviction, "otherwise be penalized" <sup>75</sup>	✓ <sup>76</sup>	<p>- Violation of restraining order<sup>77</sup></p> <p>- Civil forfeiture<sup>78</sup></p>	✓ <sup>79</sup>
IA	<a href="#">Iowa Code § 124.418</a>	July 1, 2018	-	<p>Seeker for self</p> <p>Seeker for others</p>	<p>"Protected information" shall not be considered to support probable cause and shall not be admissible against "overdose patient" or reporter for certain crimes. Protected information is that which was "collected or derived" as result of a situation meeting all of the below criteria:<sup>80</sup></p> <p><b>Overdose reporter acting in good faith:</b></p>	"shall not be considered to support probable cause" or be "admissible as evidence" <sup>82</sup>	"shall not be considered to support probable cause" or be "admissible as evidence" <sup>83</sup>	✓ <sup>84</sup>	<p>- Delivery of CS, if sharing w/o profit<sup>85</sup></p> <p>- Gatherings where controlled substances unlawfully used<sup>86</sup></p>	✓ <sup>88</sup>



State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
				Person experiencing OD	<ul style="list-style-type: none"> <li>- OD patient needs medical assistance for immediate health or safety concern</li> <li>- Reporter is first person to seek medical assistance</li> <li>- Reporter provides their name and contact info to EMS or LE</li> <li>- Reporter remains on scene until assistance arrives or is provided</li> <li>- Reporter cooperates with EMS and LE</li> <li>- Medical assistance was not sought during execution of an arrest warrant, search warrant, or other lawful search.</li> </ul> <p><b>Overdose patient:</b></p> <ul style="list-style-type: none"> <li>- An OD patient's good-faith actions to seek medical assistance while experiencing OD.</li> </ul> <p><b>Note:</b> Immunity is provided only one time to both the OD patient and the OD reporter.<sup>81</sup></p>				- Manufacture, delivery, or sales of drug paraphernalia <sup>87</sup>	
ID	<a href="#">Idaho Code Ann. § 37-2739C</a>	July 1, 2018	-	Seeker for self <sup>89</sup>  Seeker for others	<ul style="list-style-type: none"> <li>- Person, acting in good faith, seeks medical assistance for any person experiencing drug-related medical emergency OR person experiencing a drug-related medical emergency is in need of medical assistance</li> <li>- Evidence was obtained as result of medical emergency and need for medical assistance</li> </ul>	Charge and prosecution <sup>90</sup>	Charge and prosecution <sup>91</sup>	-	<ul style="list-style-type: none"> <li>- Using or being under the influence of CS<sup>92</sup></li> <li>- Use or intent to use paraphernalia<sup>93</sup></li> </ul>	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
				Person experiencing OD						
IL	<a href="#">720 Ill. Comp. Stat. § 646/115 (methamphetamine)</a>  <a href="#">720 Ill. Comp. Stat. § 570/414 (Class 4 felony)</a>  <a href="#">730 Ill. Comp. Stat. § 5/5-5-3.1 (a)(14) (mitigation)</a>	June 1, 2012	January 1, 2022 <sup>94</sup>	Person experiencing OD  Seeker for self <sup>95</sup>  Seeker for others  Person experiencing OD <sup>96</sup>	<b>Seeker:</b> <sup>97</sup> - Person acting in good faith seeks medical assistance for someone experiencing OD - For class 3 felony possession of methamphetamine: Evidence acquired as a result of person seeking or obtaining emergency medical assistance and the amount of substance recovered is less than three grams of methamphetamine or a substance containing methamphetamine. - For class 4 felony possession: Evidence acquired as a result of the person seeking or obtaining emergency medical assistance where the amount of substance recovered is within certain limits <sup>98</sup>  <b>Person experiencing OD:</b> - For class 3 felony possession: Evidence obtained solely as a result of the person seeking or obtaining emergency medical assistance and the amount of substance recovered is less than one gram of methamphetamine or a substance containing methamphetamine - For class 4 felony possession: Evidence acquired as a result of the person seeking or obtaining emergency	Arrest, charge, and prosecution <sup>99</sup>	Arrest, charge, and prosecution- <sup>100</sup>	✓ <sup>101</sup>	-	✓ <sup>102</sup>

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					medical assistance where the amount of substance recovered is within certain limits					
IN	<a href="#">Ind. Code § 16-42-27-2(d), (g), (h)</a> <a href="#">Ind. Code § 35-38-1-7.1(b)(12) (mitigation)</a>	March 26, 2014 <sup>103</sup>	July 1, 2019 <sup>104</sup>	Seeker for others <sup>105</sup>	<p>LE cannot take individual into custody solely based on commission of a listed offense if LEO reasonably believes that the individual:<sup>106</sup></p> <ul style="list-style-type: none"> <li>- obtained naloxone per the state naloxone access law</li> <li>- administered the medication to person experiencing apparent opioid-related OD</li> <li>- attempted to summon emergency services either immediately before or after administering naloxone</li> <li>- provided the individual's full name and any other relevant requested info requested by LEO</li> <li>- remained at the scene until emergency medical assistance arrived</li> <li>- cooperated with emergency medical assistance personnel and LE at the scene</li> <li>- came into contact with LE because the individual requested emergency medical assistance for another individual who appeared to be experiencing an opioid-related overdose.</li> </ul> <p><b>Note:</b> Immunity is provided only to individuals who obtained naloxone as permitted by state law and administered</p>	May not be taken into custody and is immune from prosecution <sup>107 108</sup>	May not be taken into custody and is immune from prosecution <sup>109</sup>	-	-	✓ 110

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					naloxone to the person experiencing OD, in addition to other requirements.					
KS	-	-	-	-	-	-	-	-	-	-
KY	<a href="#">Ky. Rev. Stat. Ann. § 218A.133</a>	Mar. 25, 2015	-	<p>Seeker for self</p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p>- Seeks medical assistance for OD in good faith from public safety answering point, EMS, LE, or health practitioner and at least one of the following:<sup>111</sup></p> <ul style="list-style-type: none"> <li>• Requests emergency medical assistance for self or others</li> <li>• Acts in concert with another person who requests emergency medical assistance; or</li> <li>• Appears to be in need of emergency medical assistance and is the individual for whom request was made</li> </ul> <p>- Person remains with the individual who appears to be experiencing OD until the requested assistance is provided, or is that person<sup>112</sup></p> <p>- Evidence for charge or prosecution is obtained as a result of OD and the need for medical assistance</p> <p><b>Note:</b> Law requires reporting of contact information of requester, where available, to local health dep't, and for health dep't to make contact with that person "in order to offer referrals regarding substance abuse treatment, if appropriate."</p>	Charge and prosecution <sup>113</sup>	Charge and Prosecution <sup>114</sup>	-	-	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
LA	<a href="#">La. Stat. Ann. § 14:403.10</a>	Aug. 1, 2014	August 1, 2022 <sup>115</sup>	<p>Seeker for self<sup>116</sup></p> <p>Seeker for others<sup>117</sup></p> <p>Person experiencing OD</p>	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Person acting in good faith who seeks medical assistance for an individual experiencing OD.<sup>118</sup></li> <li>- Evidence for possession of CS was obtained as a result of person's seeking medical assistance</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Person who experiences drug-related OD and is in need of medical assistance</li> <li>- Evidence for possession of CS was obtained as result of OD and the need for medical assistance</li> </ul>	<p>Charge, prosecution, and penalty (seeker)<sup>119</sup></p> <p>Arrest, charge, prosecution, and penalty (person experiencing OD)<sup>120</sup></p>	<p>Charge, prosecution, and penalty (seeker)<sup>121</sup></p> <p>Arrest, charge, prosecution, and penalty (person experiencing OD)<sup>122</sup></p>	<p>✓<sup>123</sup></p>	<p>-Civil forfeiture<sup>124</sup></p> <p>-Use of CS</p>	<p>✓<sup>125</sup></p>
MA	<a href="#">Mass. Gen. Laws ch. 94c, § 34A</a>	Aug. 2, 2012	Apr. 13, 2018 <sup>126</sup>	<p>Seeker for self</p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Person who, in good faith, seeks medical assistance for someone experiencing OD, OR person who experiences OD and is need of medical assistance and in good faith seeks such medical assistance</li> <li>- Evidence for possession of CS was obtained as a result of seeking medical assistance</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Person who experiences drug-related OD and is in need of medical assistance OR is the subject of good faith request for medical assistance</li> <li>- Evidence for possession of CS was obtained as result of OD and the need for medical assistance</li> </ul>	<p>Charge and prosecution<sup>127</sup></p>	<p>_128</p>	<p>✓<sup>129</sup></p>	<p>_ 130</p>	<p>_131</p>

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
MD	<a href="#">Md. Code, Crim. Proc. § 1-210</a>	Oct. 1, 2009	Oct. 1, 2015 <sup>132</sup>	Seeker for self <sup>133</sup> Seeker for others	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Person in good faith seeks, provides, or assists with provision of medical assistance for themselves or another person reasonably believed to be experiencing medical emergency after ingesting/using drugs</li> <li>- Evidence obtained solely as a result of person's seeking, providing, or assisting with provisions of medical assistance</li> </ul> <p><b>Note:</b> Protection from pretrial release, probation, and parole sanctions does not apply to person experiencing OD.</p>	Arrest, charge, and prosecution <sup>134</sup>	Arrest, charge, and prosecution <sup>135</sup>	✓ <sup>136</sup>	Improperly obtaining, possessing, or distributing controlled paraphernalia <sup>137</sup>	✓ <sup>138</sup>
ME	<a href="#">Me. Stat. tit. 17-A, § 1111-B</a>	Sept. 19, 2019	August 8, 2022 <sup>139</sup>	Seeker for self <sup>140</sup> Seeker for others Person experiencing OD	<ul style="list-style-type: none"> <li>- Person who in good faith calls for assistance for another person experiencing a suspected drug-related overdose, any person rendering aid at the location of the suspected drug-related overdose and any person who is experiencing a suspected drug-related overdose</li> <li>- Grounds for the arrest or prosecution are obtained as a result of a medical professional's or law enforcement officer's responding to a request for medical assistance, or the identity of the protected person is learned or the protected person is identified as a person subject to arrest or prosecution as a result of a medical professional's or law enforcement officer's responding to a request for medical assistance</li> </ul>	Arrest and prosecution <sup>141</sup>	Arrest and prosecution <sup>142</sup>	✓ <sup>143</sup>	Immunity is provided for all but certain excluded crimes <sup>144</sup>	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
MI	<a href="#">Mich. Comp. Laws § 333.7403(3)</a> <a href="#">Mich. Comp. Laws § 333.7404(3)</a>	March 15, 2016	Jan. 4, 2017 <sup>145</sup>	Seeker for self  Seeker for others  Person experiencing OD	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Person in good faith attempts to procure medical assistance for another individual or who accompanies another individual who requires medical assistance for OD OR seeks medical assistance for himself/herself due to experiencing OD<sup>146</sup></li> <li>- Evidence of violation is obtained as a result of individual attempting to procure medical assistance for another individual or as a result of accompanying another individual who requires medical assistance to a health facility</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Person who requires medical assistance for OD and is presented for assistance by another individual if he/she is incapacitated</li> <li>- Evidence of violation is obtained as a result of individual being presented for medical assistance</li> </ul>	Individuals who meet the requirements are "not in violation" of relevant law (amount for personal use) <sup>147</sup>	- <sup>148</sup>	-	Illicit use of CS or CS analogue	-
MN	<a href="#">Minn. Stat. Ann. § 604A.05</a>	July 1, 2014	-	Seeker for self <sup>149</sup>  Seeker for others  Person experiencing OD	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Person acting in good faith who seeks medical assistance for another person who is experiencing OD<sup>150</sup></li> <li>- Evidence obtained as a result of seeking medical assistance for another person</li> <li>- The other person needs medical assistance for an immediate health or safety concern</li> <li>- The seeker is the first person to seek the assistance</li> </ul>	Charge and prosecution <sup>151</sup>	Charge and prosecution <sup>152</sup>	✓ <sup>153</sup>	Sharing or use of CS or paraphernalia <sup>154</sup>	✓ <sup>155</sup>

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					<ul style="list-style-type: none"> <li>- Provides name and contact info</li> <li>- Remains on the scene until assistance arrives or is provided</li> <li>- Cooperates with authorities</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Person experiencing OD and in need of medical assistance</li> <li>- Evidence obtained as a result of OD and need of medical assistance</li> </ul>					
MO	<a href="#">Mo. Rev. Stat. § 195.205</a>	Aug 28, 2017	-	Seeker for self  Seeker for others  Person experiencing OD	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- A person who, in good faith, seeks or obtains medical assistance for someone experiencing OD or other medical emergency OR a person experiencing OD or other medical emergency who seeks medical assistance for himself/herself<sup>156</sup></li> <li>- Evidence is gained as a result of seeking or obtaining medical assistance</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Subject of a good faith request for medical assistance due to OD</li> <li>- Evidence is gained as a result of seeking or obtaining medical assistance</li> </ul>	Arrest, charge, prosecution, conviction, other penalty <sup>157</sup>	Arrest, charge, prosecution, conviction, other penalty <sup>158</sup>	✓ <sup>159</sup>	<ul style="list-style-type: none"> <li>- Possession of imitation CS</li> <li>- Use of paraphernalia</li> <li>- Violation of restraining orders</li> <li>- Civil forfeiture</li> <li>- Keeping or maintaining a public nuisance<sup>160</sup></li> </ul>	-
MS	<a href="#">Miss. Code Ann. § 41-29-149.1</a>	July 1, 2015	July 1, 2016 <sup>161</sup>	Seeker for self  Seeker for others	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Any person who in good faith seeks medical assistance for someone who is experiencing OD OR any person who is experiencing OD and in good faith seeks medical assistance<sup>162</sup></li> </ul>	Arrest, charge, and prosecution (various amounts) <sup>163</sup>	Arrest, charge, and prosecution <sup>164</sup>	✓ <sup>165</sup>	<ul style="list-style-type: none"> <li>- Use of paraphernalia</li> </ul>	-



State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
				Person experiencing OD	<ul style="list-style-type: none"> <li>- Evidence that the person is under influence of CS or in possession of CS</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Subject of a request for medical assistance</li> <li>- Evidence that the person is under influence of CS or in possession of CS</li> </ul>				<ul style="list-style-type: none"> <li>- Violation of protective and restraining orders</li> <li>- Civil forfeiture<sup>166</sup></li> </ul>	
MT	<a href="#">Mont. Code Ann. § 50-32-609</a>	May 3, 2017	July 1, 2019 <sup>167</sup>	Seeker for self <sup>168</sup>  Seeker for others <sup>169</sup>  Person experiencing OD	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Person who, acting in good faith, seeks medical assistance for another person experiencing an actual or reasonably perceived OD</li> </ul> <p>- Evidence obtained as a result of person's seeking medical assistance for another person</p> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Person who experiences OD and is in need of medical assistance</li> <li>- Evidence was obtained as a result of OD and the need for medical assistance</li> </ul> <p><b>Note:</b> In addition, law provides protection from crimes related to drugs and drug paraphernalia for "pregnant woman seeking or receiving evaluation, treatment, or support services for a substance use disorder" regardless of whether they experience an OD or seek assistance for someone experiencing an OD.<sup>170</sup></p>	Provisions of CS possession law "do not apply" to person granted immunity <sup>171</sup>	Provisions of paraphernalia law "do not apply" to person granted immunity <sup>172</sup>	✓ <sup>173</sup>	Violation of order of protection <sup>174</sup>	✓ <sup>175</sup>

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
NC	<a href="#">N.C. Gen. Stat. § 90-96.2</a>	April 9, 2013	Aug. 1, 2015 <sup>176</sup>	<p>Seeker for self<sup>177</sup></p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Seek medical assistance for an individual experiencing a drug-related overdose by contacting 911, LE, or EMS<sup>178</sup></li> <li>- Person acted in good faith seeking medical assistance, upon their reasonable belief that he/she was first to call for assistance</li> <li>- Person provided his/her own name to 911 or LE upon arrival</li> <li>- Person did not seek medical assistance during course of execution of arrest warrant, search warrant, or other lawful search</li> <li>- Evidence obtained as a result of person seeking medical assistance for OD</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Immunity extended to person who experiences OD if all the above requirements are also satisfied, with the exception that the caller need not have provided their name.</li> </ul>	Prosecution (various amounts) <sup>179</sup>	Prosecution <sup>180</sup>	✓ <sup>181</sup>	Use of paraphernalia <sup>182</sup>	-
ND	<a href="#">N.D. Cent. Code § 19-03.1-23.4</a>	Aug. 1, 2015	Aug. 1, 2019 <sup>183</sup>	<p>Seeker for others<sup>184</sup></p> <p>Person experiencing OD<sup>185</sup></p>	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- In good faith seeks medical assistance for another individual in need of emergency medical assistance due to OD<sup>186</sup></li> <li>- Must remain on scene until assistance arrives</li> <li>- Must cooperate with medical treatment of the reported drug overdosed individual</li> </ul>	Prosecution <sup>187</sup>	Charge and prosecution <sup>188</sup>	-	<ul style="list-style-type: none"> <li>- Inhalation of certain substances<sup>189</sup></li> <li>- Use of CS</li> <li>- Use of CS analog</li> </ul>	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					<ul style="list-style-type: none"> <li>- Other individual must have been in condition a layperson would reasonably believe to be OD requiring immediate medical assistance</li> <li>- Evidence obtained as a result of OD and the need for emergency medical assistance</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Individual experiencing OD and in need of emergency medical assistance</li> <li>- Evidence obtained as a result of OD and the need for emergency medical assistance.</li> </ul>				<ul style="list-style-type: none"> <li>- Use of paraphernalia</li> <li>- Sharing of CS among those present at OD</li> </ul>	
NE	<a href="#">Neb. Rev. Stat. § 28-472</a>	Aug 24, 2017	-	<p>Seeker for self</p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Person made good faith request for emergency medical assistance for OD of himself/herself or another<sup>190</sup></li> <li>- Request for medical assistance made as soon as OD was apparent</li> <li>- Evidence obtained as result of OD and request for medical assistance</li> <li>- If requested for another person: (1) requesting person remained on the scene until medical assistance or LE arrived and (2) requesting person cooperated with medical assistance and LE</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Subject of request for medical assistance by another person</li> </ul>	"Shall not be in violation of" <sup>191</sup>	"Shall not be in violation of" <sup>192</sup>	-	-	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					- Evidence obtained as a result of OD and a request for medical assistance by another person who complied with requirements above					
NH	<a href="#">N.H. Rev. Stat. Ann. § 318-B:28-b</a>	Sept. 6, 2015	_193	Seeker for self  Seeker for others  Person experiencing OD	<b>Seeker:</b> - In good faith and in timely manner requests medical assistance for another person experiencing OD OR person who experiences OD, in good faith and timely manner, requests medical assistance for himself/herself <sup>194</sup>  - Evidence gained as a proximate result of the request for medical assistance  <b>Person experiencing OD:</b> - Subject of good faith request for medical assistance  - Evidence gained as proximate result of request for medical assistance	Arrest, prosecution, and conviction <sup>195</sup>	_196	-	-	-
NJ	<a href="#">N.J. Rev. Stat. § 2C:35-30</a>  <a href="#">N.J. Rev. Stat. § 2C:35-31</a>	May 2, 2013	-	Seeker for self  Seeker for others  Person experiencing OD <sup>197</sup>	<b>Seeker:</b> - Person who seeks medical assistance in good faith for themselves or another person who is experiencing OD and is in need of medical assistance  - Evidence obtained as result of seeking medical assistance  <b>Person experiencing OD:</b> - Person who is subject to a good faith request for medical assistance	Arrest, charge, prosecution, or conviction <sup>198</sup>	Arrest, charge, prosecution, or conviction <sup>199</sup>	✓ <sup>200</sup>	Use, being under influence of, or failing to make lawful disposition of controlled dangerous substance or CS analog; several other drug-related crimes <sup>201</sup>	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
NM	<a href="#">N.M. Stat. § 30-31-27.1</a>	June 15, 2007	July 1, 2019 <sup>202</sup>	<p>Seeker for self<sup>203</sup></p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- A person who, in good faith, seeks medical assistance for someone experiencing OD<sup>204</sup></li> <li>- Evidence was obtained as a result of the need for seeking medical assistance.</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Person experiences OD and is in need of medical assistance</li> <li>- Evidence was obtained as a result of OD and the need for seeking medical assistance.</li> </ul>	Arrest, charge, prosecution, other penalty <sup>205</sup>	Arrest, charge, prosecution, other penalty <sup>206</sup>	✓ <sup>207</sup>	<ul style="list-style-type: none"> <li>- Civil forfeiture</li> <li>- Violation of restraining order</li> </ul>	✓ <sup>208</sup>
NV	<a href="#">Nev. Rev. Stat. § 453C.150</a>	Oct. 1, 2015	- <sup>209</sup>	<p>Seeker for self</p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- A person who, in good faith, seeks medical assistance for person who is experiencing OD or other medical emergency OR seeks assistance for himself/herself due to experiencing OD<sup>210</sup></li> <li>- Immunity provided if a person: <ul style="list-style-type: none"> <li>- (1) reports medical emergency to LE, 911, poison control center, medical facility, or EMS OR</li> <li>- (2) assists another person making such a report OR</li> <li>- (3) provides care to person experiencing OD until medical assistance arrives OR</li> </ul> </li> </ul>	Arrest, charge, prosecution, conviction, other penalty <sup>211</sup>	Arrest, charge, prosecution, conviction, other penalty <sup>212</sup>	✓ <sup>213</sup>	<ul style="list-style-type: none"> <li>- Violation of restraining order</li> <li>- Civil forfeiture</li> <li>- Use of CS<sup>214</sup></li> <li>- Use of paraphernalia<sup>215</sup></li> <li>- Certain local ordinances<sup>216</sup></li> </ul>	✓ <sup>217</sup>

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					<p>- (4) delivers person experiencing drug OD to medical facility and notifies authorities</p> <p><b>Person experiencing OD:</b></p> <p>- Subject of good faith request for medical assistance</p>					
NY	<p><a href="#">N.Y. Penal Law § 220.03</a></p> <p><a href="#">N.Y. Penal Law § 220.78</a></p> <p><a href="#">N.Y. Crim. Proc. Law § 390.40(3) (mitigation)</a></p>	Sept. 18, 2011	218	<p>Seeker for self</p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p><b>Seeker:</b></p> <p>- A person who, in good faith, seeks health care for someone who is experiencing OD or other life-threatening medical emergency OR a person who is experiencing OD or other life-threatening medical emergency and, in good faith, seeks health care for himself or herself<sup>219</sup></p> <p><b>Person experiencing OD:</b></p> <p>- Subject of good faith request for health care</p>	<p>Not a violation (possession in the 7th degree)<sup>220</sup></p> <p>Charge and prosecution (A-II felonies and below)<sup>221</sup></p>	Charge and prosecution <sup>222</sup>	-	<p>- CS offense "other than an offense involving sale for consideration or other benefit or gain"<sup>223</sup></p> <p>- Affirmative defense to CS sale in limited circumstance<sup>s224</sup></p>	✓ <sup>225</sup>
OH	<p><a href="#">Ohio Rev. Code § 2925.11(B)(2)</a></p>	Sept. 13, 2016	April 4, 2023 <sup>226</sup>	<p>Seeker for self</p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p><b>Seeker:</b></p> <p>- Person acting in good faith seeks/obtains medical assistance for another person experiencing OD OR a person who experiences OD himself/herself and seeks medical assistance<sup>227</sup></p> <p><b>Person experiencing OD:</b></p> <p>- A person who is the subject of another person seeking or obtaining medical assistance for OD</p>	<p>Arrest, charge, prosecution, conviction, and penalty ("minor drug possession offense")</p>	<p>Arrest, charge, prosecution, conviction, and penalty<sup>230</sup></p>	✓ <sup>231</sup>	<p>- Use of CS or CS analog</p> <p>-Use of "drug abuse instruments" or drug paraphernalia</p>	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					<p><b>Both:</b></p> <ul style="list-style-type: none"> <li>- Within 30 days of seeking or obtaining the medical assistance, seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional and, upon request of the prosecuting attorney, submits documentation.<sup>228</sup></li> <li>- Evidence was obtained as a result of seeking or needing medical assistance</li> </ul> <p><b>Note:</b> Does not apply to any person who has previously been granted immunity under the statute twice.<sup>229</sup></p>					
OK	<a href="#">Ok. Stat. tit. 63 § 2-413.1</a>	Nov. 1, 2018	-	Seeker for others <sup>232</sup>	<p>Peace Officer reasonably believes all the following apply: <sup>233</sup></p> <ul style="list-style-type: none"> <li>- Person requested emergency medical assistance for an individual who reasonably appeared to need medical assistance due to use of CS</li> <li>- Person provided full name and other relevant info requested by peace officer</li> <li>- Remained at scene with individual<sup>234</sup> until emergency medical assistance arrived</li> <li>- Cooperated with emergency medical assistance personnel and peace officers at the scene</li> </ul>	Shall not be taken into custody, <sup>235</sup> immune from prosecution (various amounts of Schedule I or Schedule II controlled dangerous substances) <sup>236</sup>	Shall not be taken into custody, immune from prosecution <sup>237</sup>	-	-	-
OR	<a href="#">Or. Rev. Stat. Ann. § 475.898</a>		Apr. 21, 2017 <sup>238</sup>	Seeker for self <sup>239</sup>	<b>Seeker:</b>	Arrest and prosecution <sup>241</sup>	Arrest and prosecution <sup>242</sup>	✓ <sup>243</sup>	- Unlawful possession of drug	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
		Jan. 1, 2016		<p>Seeker for others</p> <p>Person experiencing OD</p>	<p>- Contacts EMS or LE to obtain medical assistance for another person needing medical assistance due to OD<sup>240</sup></p> <p>- Evidence is obtained because person contacted EMS or LE</p> <p><b>Person experiencing OD:</b></p> <p>- In need of medical assistance due to OD</p> <p>- Evidence is obtained because any person contacted EMS or LE to obtain medical assistance</p>				<p>paraphernalia w/ intent to sell or deliver</p> <p>- Frequenting a place where CS are used<sup>244</sup></p> <p>- Existing warrant for certain crimes<sup>245</sup></p>	
PA	<a href="#">35 Pa. Cons. Stat. § 780-113.7</a>	Dec. 1, 2014	-	<p>Seeker for others</p> <p>Person experiencing OD<sup>246</sup></p>	<p><b>Seeker:</b></p> <p>LE only became aware of person's offense because person transported another experiencing drug OD to LE agency, campus security office, or health care facility</p> <p>OR</p> <p>All the following apply:<sup>247</sup></p> <p>- Person reported in good faith a drug overdose event to LE, 911 campus security officer, or EMS on reasonable belief that another person needed immediate medical attention and was necessary to prevent death or serious bodily injury due to OD</p> <p>- provided own name, location, and cooperated with LE, 911, campus security officer, or EMS</p> <p>- person remained with the person needing immediate medical attention until LE, campus security, or EMS arrived</p>	Charge and prosecution <sup>248</sup>	Charge and prosecution <sup>249</sup>	✓ <sup>250</sup>	Delivery and manufacture of paraphernalia <sup>251</sup>	-



State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					<p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Is entitled to immunity if the Seeker meets the qualifications for immunity</li> </ul>					
RI	<a href="#">R.I. Gen Laws § 21-28.9-4</a>	June 18, 2012 <sup>252</sup>	July 2, 2018 <sup>253</sup>	<p>Seeker for self<sup>254</sup></p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Any person who, in good faith, without malice and in absence of evidence of an intent to defraud, seeks medical assistance for someone experiencing OD or other drug-related medical emergency</li> </ul> <p>- Evidence gained as a result of seeking medical assistance</p> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Person experiencing OD or other drug related medical emergency and is in need of medical assistance</li> <li>- Evidence gained as a result of OD and need for medical assistance</li> </ul>	Charge and prosecution <sup>255</sup>	Charge and prosecution <sup>256</sup>	✓ <sup>257</sup>	Operation of drug-involved premises <sup>258</sup>	✓ <sup>259</sup>
SC	<a href="#">S.C. Code Ann. § 44-53-1910 et seq.</a>	June 10, 2017	-	<p>Seeker for self<sup>260</sup></p> <p>Seeker for others<sup>261</sup></p> <p>Person experiencing OD</p>	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Seeks medical assistance for another person who appears to be experiencing OD<sup>262</sup></li> <li>- Evidence obtained as a result of person seeking medical assistance for apparent OD on premises or immediately after seeking medical assistance</li> <li>- Acted in good faith when seeking medical assistance, upon a reasonable belief that he was the first person to call for assistance</li> </ul>	Prosecution (varying amounts) <sup>264</sup>	Prosecution <sup>265</sup>	-	<ul style="list-style-type: none"> <li>- Dispensing or delivering CS, when directed to person experiencing OD</li> <li>- Selling or delivering paraphernalia, when directed to person</li> </ul>	✓ <sup>267</sup>

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					<ul style="list-style-type: none"> <li>- Provided his own name to 911 or to LEO upon arrival</li> <li>- Did not seek medical assistance during course of execution of an arrest warrant, search warrant, or other lawful search</li> <li>- Fully cooperate with LE and medical personnel</li> <li>- Remain with the individual needing medical assistance until help arrives</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Person experiences OD and is in need of medical assistance</li> <li>- Evidence obtained as a result of OD and need for medical assistance</li> <li>- Person who sought medical assistance on their behalf used their own name when contacting authorities and fully cooperated with LE and medical personnel.</li> </ul> <p><b>Note:</b> Whether to grant immunity to a seeker more than once is up to the court.<sup>263</sup></p>				experiencing OD <sup>266</sup>	
SD	<a href="#">S.D. Codified Laws § 34-20A-109 to S.D. Codified</a>	July 1, 2017	-	<p>Seeker for self</p> <p>Seeker for others</p>	<p><b>Seeker for others:</b></p> <ul style="list-style-type: none"> <li>- Person contacts LE or EMS and reports that a person is in need of emergency medical assistance as the result of OD<sup>268</sup></li> <li>- Evidence obtained as result of person seeking medical assistance for another</li> </ul>	Arrest and prosecution <sup>270</sup>	-	-	Use of CS <sup>271</sup>	✓ <sup>272</sup>

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
	<a href="#">Laws § 34-20A-113</a>				<ul style="list-style-type: none"> <li>- Person seeking medical assistance remains on the scene and cooperates with medical assistance and LE</li> </ul> <p><b>Seeker for self:</b></p> <ul style="list-style-type: none"> <li>- Person experiences OD and in need of medical assistance</li> <li>- Contacts LE or EMS and reports need for medical assistance due to OD</li> <li>- Evidence obtained as result of OD and the need for medical assistance</li> </ul> <p><b>Note:</b> Individuals may only receive immunity one time.<sup>269</sup></p>					
TN	<a href="#">Tenn. Code Ann. § 63-1-156</a>	July 1, 2015	July 1, 2023 <sup>273</sup>	<p>Seeker for self</p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Any person who, in good faith, seeks medical assistance for a person experiencing, or believed to be experiencing, OD OR person experiencing OD who in good faith seeks medical assistance for himself/herself<sup>274</sup></li> <li>- Evidence resulted from seeking such medical assistance</li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Subject of a request for medical assistance</li> <li>- Evidence resulted from seeking such medical assistance</li> </ul> <p><b>“Seeking medical assistance” requires:</b></p> <ul style="list-style-type: none"> <li>- Accesses or assists in accessing medical assistance or 911</li> </ul>	Arrest, charge, and prosecution (any amount consistent w/ simple possession) <sup>276</sup>	Arrest, charge, and prosecution <sup>277</sup>	✓ <sup>278</sup>	<ul style="list-style-type: none"> <li>- Protective orders or restraining orders</li> <li>- Casual exchange of CS<sup>279</sup></li> <li>- Various paraphernalia crimes<sup>280</sup></li> </ul>	., <sup>281</sup>

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					<ul style="list-style-type: none"> <li>- Contacts or assists in contacting LE or a poison control center</li> <li>- Provides care or contacts or assists in contacting any person or entity to provide care while awaiting the arrival of medical assistance to aid person experiencing, or believed to be experiencing, OD</li> </ul> <p><b>Note:</b> Immunity applies to the person experiencing OD only on the person's first such OD.<sup>275</sup></p>					
TX	<a href="#">Tex. Health &amp; Safety Code Ann. §§ 481.115 to .118</a> <a href="#">Tex. Health &amp; Safety Code Ann. § 481.119</a> <a href="#">Tex. Health &amp; Safety Code Ann. § 481.121</a> <a href="#">Tex. Health &amp; Safety Code Ann. § 481.125</a> <a href="#">Tex. Health &amp; Safety</a>	September 1, 2021 <sup>282</sup>	-	Seeker for self <sup>283</sup> Seeker for others <sup>284</sup> Person experiencing OD <sup>285</sup>	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- Person must meet the following criteria: (1) be the first person to request emergency medical assistance in response to the possible overdose of another person; (2) make the request during an ongoing medical emergency; (3) remained on the scene until the medical assistance arrives; and (4) cooperate with medical assistance and law enforcement personnel.<sup>286</sup></li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Person must be the victim of a possible overdose for which emergency medical assistance was requested, by the actor or by another person, during an ongoing medical emergency.<sup>287</sup></li> </ul> <p><b>Note:</b> Protection is unavailable in the following situations: (1) the request for aid occurred in the midst of a law enforcement arrest or execution of a search warrant; (2) the request for aid occurred while the</p>	Defense to prosecution <sup>289</sup>	Defense to prosecution <sup>290</sup>	-	<ul style="list-style-type: none"> <li>-Possession or use of an “abusable volatile chemical”<sup>291</sup></li> <li>-Possession of a “dangerous drug”<sup>292</sup></li> <li>-Use of drug paraphernalia<sup>293</sup></li> </ul>	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
	<a href="#">Code Ann. § 485.031</a>  <a href="#">Tex. Health &amp; Safety Code Ann. § 483.041</a>				<p>eligible person committed another offense not subject to the protection; (3) the individual had a prior conviction for a covered offense or a prior placement on deferred adjudication community supervision for any covered offenses; (4) the individual successfully relied on the defense to gain acquittal previously; or (5) the individual previously requested emergency medical assistance for a possible overdose during the prior 18 months.<sup>288</sup></p>					
UT	<a href="#">Utah Code § 58-37-8(16)</a>  <a href="#">Utah Code § 76-3-203.11</a> (mitigation)	Mar. 20, 2014	May 12, 2020 <sup>294</sup>	Seeker for self  Seeker for others  Person experiencing OD	Affirmative defense that person or bystander: <ul style="list-style-type: none"> <li>- reasonably believes that the person or another person is experiencing OD event due to the ingestion, injection, inhalation, or other introduction into the human body of CS or other substance<sup>295</sup></li> <li>- reports, or assists a person who reports, in good faith the OD to a medical provider, EMS, LE, 911, or an emergency dispatch, or the person is the subject of a report</li> <li>- provides in the report a functional description of actual location of the OD that facilitates responding to the person experiencing OD</li> <li>- remains at the location of person experiencing OD until LE or EMS arrives or remains at medical care facility where person experiencing OD is located until responding LE arrives</li> <li>- cooperates with medical provider, EMS, and LE, including providing information</li> </ul>	Affirmative defense to an allegation of the commission of an offense <sup>297</sup> (any quantity of CS except greater than 16 ounces of marijuana) <sup>298</sup>	Affirmative defense to an allegation of the commission of an offense <sup>299</sup>	-	-Use of less than 16 ounces of marijuana  - Use of a scheduled or listed controlled substance other than marijuana  - Any violation of Chapter 37a, Utah Drug Paraphernalia Act	✓ <sup>300</sup>

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					<p>regarding the person experiencing OD and any substances the person may have introduced into their body</p> <ul style="list-style-type: none"> <li>- alleged to have committed offense in same course of events from which OD arose</li> <li>- medical assistance is not sought during the execution of a search warrant, arrest warrant, or other lawful search.<sup>296</sup></li> </ul>				-Any violation of Chapter 37b, Imitation Controlled Substances Act	
VA	<a href="#">Va. Code Ann. § 18.2-251.03</a>	July 1, 2015	July 1, 2021 <sup>301</sup>	<p>Seeker for self</p> <p>Seeker for others</p> <p>Person experiencing OD</p>	<p><b>Seeker:</b></p> <ul style="list-style-type: none"> <li>- In good faith seeks or obtains emergency medical attention for himself, if he is experiencing OD, OR for another individual, if such other individual is experiencing OD, by contemporaneously reporting such overdose to a firefighter, EMS, LE, or 911<sup>302</sup></li> </ul> <p><b>Person experiencing OD:</b></p> <ul style="list-style-type: none"> <li>- Experiencing OD and another individual, in good faith, seeks/obtains emergency medical attention for such individual, by contemporaneously reporting such overdose to a firefighter, EMS, LE, 911</li> </ul> <p><b>Both:</b></p> <ul style="list-style-type: none"> <li>- Remain at the scene of OD or at any alternative location to which he or person requiring emergency medical attention has been transported until LE responds to report</li> <li>- Identifies themselves to LEO who responds to report</li> </ul>	Arrest and prosecution <sup>303</sup>	Arrest and prosecution <sup>304</sup>	-	<ul style="list-style-type: none"> <li>-Public intoxication</li> <li>-Unlawful purchase, possession, or consumption of marijuana</li> <li>-Unlawful purchase, possession, or consumption of alcohol</li> </ul>	-

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					<ul style="list-style-type: none"> <li>- Evidence obtained as result of individual seeking or obtaining emergency medical attention</li> <li>- Not seek or obtain medical attention during the execution of a search warrant or conduct of a lawful search or arrest</li> </ul>					
VT	<a href="#">Vt. Stat. Ann. tit. 18, § 4254</a>	June 5, 2013	July 1, 2017 <sup>305</sup>	Seeker for self  Seeker for others  Person experiencing OD	<b>Seeker:</b> - A person who, in good faith and timely manner, seeks medical assistance for someone experiencing OD OR a person who is experiencing OD and in good faith seeks medical assistance for himself/herself <sup>306</sup>  <b>Person experiencing OD:</b> - Subject of a good faith request for medical assistance <sup>307</sup>  <b>Both:</b> - Evidence gained as a result of seeking medical assistance <sup>308</sup>	Citation, arrest, and prosecution <sup>309</sup>	_310	✓ <sup>311</sup>	<ul style="list-style-type: none"> <li>- Violation of protective orders</li> <li>- Civil forfeiture</li> <li>- All violations of CS chapter<sup>312</sup></li> </ul>	✓ <sup>313</sup>
WA	<a href="#">Wash. Rev. Code § 69.50.315</a>  <a href="#">Wash. Rev. Code § 9.94A.535(1)(i) (mitigation)</a>	June 10, 2010	_314	Seeker for self <sup>315</sup>  Seeker for others  Person experiencing OD	<b>Seeker:</b> - A person acting in good faith seeks medical assistance for someone experiencing OD - Evidence obtained as result of person seeking medical assistance  <b>Person experiencing OD:</b> - Person who experiences OD and is in need of medical assistance	Charge, prosecution, penalty <sup>316</sup>	_ 317	-	-	✓ 318

State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					- Evidence obtained as result of OD and need for medical assistance					
WI	<a href="#">Wis. Stat. § 961.443</a>	April 9, 2014	Aug. 1, 2020 <sup>319</sup>	Seeker for others <sup>320</sup>	- Assist another person by bringing them to a hospital or other enumerated facility, makes contact with enumerated professionals, or calls 911 or EMS for another person who is, or a reasonable person would believe him/her to be, suffering from OD or other adverse reaction to any CS or CS analog <sup>321</sup>	Prosecution <sup>322</sup>	Prosecution <sup>323</sup>	_ <sup>324</sup>	Possession of masking agent	-
WV	<a href="#">W. Va. Code §§ 16-47-1 to 47-6</a>	June 12, 2015	_ <sup>325</sup>	Seeker for others  Person experiencing an OD <sup>326</sup>	<b>Seeker:</b> - In good faith and timely manner, seeks emergency medical assistance for a person who reasonably appears to be experiencing OD - Remains with person who reasonably appears to be in need of emergency medical assistance due to OD until assistance is provided - Identifies himself/herself, if requested by EMS or LE - Cooperates with and provides relevant info requested by EMS or LE needed to	"May not be held criminally responsible" <sup>327</sup>	_ <sup>328</sup>	✓ <sup>329</sup>	Public intoxication <sup>330</sup>	✓ <sup>331</sup>





State	Citation	First enacted	Most recent change	Who gets immunity? <sup>13</sup>	Requirements for immunity	Drug possession	Paraphernalia possession	Pretrial, Probation, or Parole	Other protections	Mitigation
					treat person who reasonably appears to be experiencing OD <b>Person experiencing OD:</b> -Person who receives medical attention completes court approved program					
WY	-	-	-	-	-	-	_332	-	-	-

## SUPPORTERS



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<sup>1</sup> National Center for Health Statistics, *Vital Statistics Rapid Release: Provisional Drug Overdose Death Counts* (2023), available at <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>.

<sup>2</sup> Press Release, Centers for Disease Control and Prevention (CDC), U.S. Overdose Deaths in 2021 Increased Half as Much as in 2020 – But Are Still Up 15% (May 11, 2022), [https://www.cdc.gov/nchs/pressroom/nchs\\_press\\_releases/2022/202205.htm](https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/202205.htm) (“The new data show overdose deaths involving opioids increased from an estimated 70,029 in 2020 to 80,816 in 2021.”)

<sup>3</sup> Opioid overdose is caused by excessive depression of the respiratory and central nervous systems. Naloxone, a  $\kappa$ - and  $\delta$ , and  $\mu$ -opioid receptor competitive antagonist, works by displacing opioids from these receptors, thereby reversing their depressant effect. See J. M. Chamberlain & B. L. Klein, *A comprehensive review of naloxone for the emergency physician*, 12 AM J EMERG MED (1994).

<sup>4</sup> See S. Koester, et al., *Why are some people who have received overdose education and naloxone reticent to call Emergency Medical Services in the event of overdose?*, 48 INT J DRUG POLICY (2017); A. D. Latimore & R. S. Bergstein, *“Caught with a body” yet protected by law? Calling 911 for opioid overdose in the context of the Good Samaritan Law*, 50 INT J DRUG POLICY (2017).

<sup>5</sup> B. Ray, et al., *Prevalence and correlates of incarceration following emergency medical services response to overdose*, 238 DRUG ALCOHOL DEPEND (2022).

<sup>6</sup> Karin Tobin, et al., *Calling emergency medical services during drug overdose: an examination of individual, social and setting correlates*, 100 ADDICTION 397 (2005); Robin A. Pollini, et al., *Response to Overdose Among Injection Drug Users*, 31 American Journal of Preventive Medicine 261 (2006).

<sup>7</sup> K. D. Wagner, et al., *Post-overdose interventions triggered by calling 911: Centering the perspectives of people who use drugs (PWUDs)*, 14 PLOS ONE (2019); A. D. Latimore & R. S. Bergstein, *“Caught with a body” yet protected by law? Calling 911 for opioid overdose in the context of the Good Samaritan Law*, 50 INT J DRUG POLICY (2017) Joseph Friedman, et al., *Intersectional structural vulnerability to abusive policing among people who inject drugs: A mixed methods assessment in California’s central valley*, 87 INTERNATIONAL JOURNAL OF DRUG POLICY (2021).

<sup>8</sup> See Chandler McClellan, et al., *Opioid-overdose laws associated with opioid use and overdose mortality*, 86 ADDICTIVE BEHAVIORS 90 (Nov. 2018) (15% reduction in overdose mortality); T. N. Townsend, et al., *Use of an Inverted Synthetic Control Method to Estimate Effects of Recent Drug Overdose Good Samaritan Laws, Overall and by Black/White Race/Ethnicity*, 191 AM J EPIDEMIOLOG (2022) (no significant effect); D. N. Atkins, et al., *Good Samaritan harm reduction policy and drug overdose deaths*, 54 HEALTH SERV RES (2019) (no significant effect); S. Moallem & K. Hayashi, *The effectiveness of drug-related Good Samaritan laws: A review of the literature*, 90 INT J DRUG POLICY (2021).

<sup>9</sup> L. Hamilton, et al., *Good Samaritan laws and overdose mortality in the United States in the fentanyl era*, 97 INT J DRUG POLICY (2021).

<sup>10</sup> See Me. Stat. tit. 17-A § 1111-B. See Table 1 for additional information regarding this law.

<sup>11</sup> The list of excluded crimes are in Me. Stat. tit. 17-A § 1111-B(1)(A).

<sup>12</sup> Note that the “Mitigating factor” column is coded as a “Yes” only if the law provides mitigation for the act of reporting an overdose, not simply responding.

<sup>13</sup> A “seeker for self” is a person who is themselves experiencing an overdose and seeks assistance. A seeker for others is a person who seeks assistance for another individual who is experiencing an overdose. A person experiencing an overdose is the person for whom assistance is sought. Some states are not specific as to whether the seeker must be calling for another person in order to receive

immunity. For the purposes of this chart, when the law does not clearly state that the seeker must be calling for another person, we assume that either calling for another person or calling for oneself would qualify for immunity.

<sup>14</sup> For the purposes of brevity, the following abbreviations will be used throughout the chart: “LE” = Law Enforcement; “LEO” = Law Enforcement Officer; “OD” = Overdose; “ID” = Identification; “EMS” = Emergency Medical Services; “CS” = Controlled Substances.

<sup>15</sup> An individual “may not be prosecuted for a misdemeanor controlled substance offense if law enforcement became aware of the offense solely because the individual was seeking medical assistance for another individual under this article.” Ala. Code § 20-2-281(b).

<sup>16</sup> Use or possession with intent to use is a misdemeanor in most circumstances, and therefore covered by the immunity provisions. However, possession of paraphernalia with intent to illegally manufacture a controlled substance is a felony, and therefore not covered. Ala. Code § 13A-12-260(d).

<sup>17</sup> The law provides protection from all misdemeanor controlled substance offenses with the exception of driving under the influence. Ala. Code § 20-2-281(b).

<sup>18</sup> Mitigation law effective September 8, 2008. Good Samaritan law effective October 8, 2014.

<sup>19</sup> Changes effective July 12, 2016, appear to have been made solely to conform to changes made in Alaska Stat. § 11.70.050, to which it refers. They are not substantive. July 2019 changes added immunity from some possession crimes (Alaska Stat. § 11.70.040(a)(12); Alaska Stat. § 11.71.040(a)(5)) that were not previously included but removed immunity from possessing some drugs in a school zone (Alaska Stat. § 11.70.030(a)(3)).

<sup>20</sup> In this section, “drug overdose” is defined as “a controlled-substance-induced physiological event that results in a life-threatening emergency to the person who ingested, inhaled, injected, or otherwise introduced the controlled substance into the body.” Alaska Stat. § 11.71.311(b).

<sup>21</sup> “A person may not be prosecuted for a violation of AS 11.71.040(a)(3), (4), or (12), 11.71.050(a)(4) or (5), or 11.71.060(a)(1) or (2) if that person (1) sought, in good faith, medical or law enforcement assistance for another person who the person reasonably believed was experiencing a drug overdose” and meets the other requirements of the law. Alaska Stat. § 11.71.311(a).

<sup>22</sup> Possession of drug paraphernalia is not a crime under Alaska state law, although several municipalities have enacted local paraphernalia ordinances.

<sup>23</sup> Immunity applies to Alaska Stat. § 11.71.060(a)(1) and (2), per Alaska Stat. § 11.71.311(a).

<sup>24</sup> Downward deviation in sentencing “shall be considered by the sentencing court if proven in accordance with this section, and may allow imposition of a sentence below the presumptive range” where “the defendant is convicted of an offense under AS 11.71, and the defendant sought medical assistance for another person who was experiencing a drug overdose contemporaneously with the commission of the offense.” Alaska Stat. § 12.55.155(d)(19). AS 11.71 is the section of the law pertaining to controlled substances.

<sup>25</sup> Law is repealed effective July 1, 2028. See Ariz. Laws 2018, 1st S.S., Ch. 1, § 7, as amended by Ariz. Laws 2023, Ch. 26, § 1.

<sup>26</sup> “A person who, in good faith, seeks medical assistance for someone experiencing a drug-related overdose . . .” Ariz. Rev. Stat. § 13-3423(A).

<sup>27</sup> “‘Seeks medical assistance’ means to call 911 or otherwise contact law enforcement, poison control or a hospital emergency department.” Ariz. Rev. Stat. § 13-3423(F)(2).

<sup>28</sup> “A person who, in good faith, seeks medical assistance for someone experiencing a drug-related overdose may not be charged or prosecuted for the possession or use of a controlled substance or drug paraphernalia or a preparatory offense if the evidence for the violation was gained as a result of the person’s seeking medical assistance.” Ariz. Rev. Stat. § 13-3423(A). “A person who experiences a drug-related overdose, who is in need of medical assistance and for whom medical assistance is sought pursuant to subsection A of this section may not be charged or prosecuted for the possession or use of a controlled substance or drug paraphernalia if the evidence for the violation was gained as a result of the person’s overdose and need for medical assistance.” Ariz. Rev. Stat. § 13-3423(B).

<sup>29</sup> “A person who, in good faith, seeks medical assistance for someone experiencing a drug-related overdose may not be charged or prosecuted for the possession or use of a controlled substance or drug paraphernalia or a preparatory offense if the evidence for the violation was gained as a result of the person’s seeking medical assistance.” Ariz. Rev. Stat. § 13-3423(A). “A person who experiences a drug-related overdose, who is in need of medical assistance and for whom medical assistance is sought pursuant to subsection A of this section may not be charged or prosecuted for the possession or use of a controlled substance or drug paraphernalia if the evidence for the violation was gained as a result of the person’s overdose and need for medical assistance.” Ariz. Rev. Stat. § 13-3423(B).

<sup>30</sup> “The act of seeking medical assistance for someone who is experiencing a drug-related overdose may be used as a mitigating factor in a criminal prosecution for a violation of this chapter.” Ariz. Rev. Stat. § 13-3423(C).

<sup>31</sup> “‘Seeks medical assistance’ means accesses or assists in accessing the 911 system or otherwise contacts or assists in contacting law enforcement or a poison control center and provides care to a person experiencing or believed to be experiencing a drug overdose.” Ark. Code. § 20-13-1703(4).

<sup>32</sup> “A person shall not be arrested, charged, or prosecuted for possession of a controlled substance in violation of § 5-64-419 if the evidence for the arrest, charge, or prosecution of the possession of a controlled substance in violation of § 5-64-419 resulted solely from seeking medical assistance if: (1) The person in good faith seeks medical assistance for another person who is experiencing a drug overdose; or (2) The person is experiencing a drug overdose and in good faith seeks medical assistance for himself or herself.” Ark. Code Ann. § 20-13-1704(a).

<sup>33</sup> “A person shall not be subject to penalties for a violation of a permanent or temporary protective order or restraining order or sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole based on the possession of a controlled substance in violation of § 5-64-419 if the penalties or sanctions are related to the seeking of medical assistance.” Ark. Code. § 20-13-1704(b). Effective January 1, 2024, Ark. Code Ann. § 20-13-1704(b) will be modified slightly to read as follows: “A person shall not be subject to penalties for a violation of a permanent or temporary protective order or restraining order or sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole or post-release supervision based on the possession of a

controlled substance in violation of § 5–64–419 if the penalties or sanctions are related to the seeking of medical assistance.” See 2023 Arkansas Laws Act 659 (S.B. 495).

<sup>34</sup> Immunity is available to “one or more other persons at the scene of the overdose” who seek medical assistance in good faith for the person experiencing the overdose. Cal. Health & Safety Code § 11376.5(b).

<sup>35</sup> “For the purposes of this section, ‘drug-related overdose’ means an acute medical condition that is the result of the ingestion or use by an individual of one or more controlled substances or one or more controlled substances in combination with alcohol, in quantities that are excessive for that individual that may result in death, disability, or serious injury. An individual’s condition shall be deemed to be a ‘drug-related overdose’ if a reasonable person of ordinary knowledge would believe the condition to be a drug-related overdose that may result in death, disability, or serious injury.” Cal. Health & Safety Code § 11376.5(e).

<sup>36</sup> “[I]t shall not be a crime for a person to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or drug paraphernalia, if that person, in good faith, seeks medical assistance for another person experiencing a drug-related overdose . . . .” Cal. Health & Safety Code § 11376.5(a). “[I]t shall not be a crime for a person who experiences a drug-related overdose and who is in need of medical assistance to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or drug paraphernalia, if the person or one or more other persons at the scene of the overdose, in good faith, seek medical assistance for the person experiencing the overdose.” Cal. Health & Safety Code § 11376.5(b).

<sup>37</sup> “[I]t shall not be a crime for a person to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or drug paraphernalia, if that person, in good faith, seeks medical assistance for another person experiencing a drug-related overdose . . . .” Cal. Health & Safety Code § 11376.5(a). “[I]t shall not be a crime for a person who experiences a drug-related overdose and who is in need of medical assistance to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or drug paraphernalia, if the person or one or more other persons at the scene of the overdose, in good faith, seek medical assistance for the person experiencing the overdose.” Cal. Health & Safety Code § 11376.5(b).

<sup>38</sup> “This section shall not affect laws prohibiting the selling, providing, giving, or exchanging of drugs, or laws prohibiting the forcible administration of drugs against a person’s will.” Cal. Health & Safety Code § 11376.5(c).

<sup>39</sup> Effective June 6, 2014, the law was amended to add illegal possession of marijuana and marijuana paraphernalia by an underage person. Effective August 10, 2016, text was changed from “immune from criminal prosecution” to “immune from arrest and prosecution.” Effective March 1, 2020, the law was amended to modify the quantities of marijuana that qualify for immunity and to add immunity for less than three ounces of marijuana concentrate. Effective July 1, 2022, the law was amended to add immunity for unlawful distribution, manufacturing, dispensing, or sale of certain specified substances.

<sup>40</sup> The requirements do not specify that reporting the overdose must be for another person or for any specific individual. Colo. Rev. Stat. § 18-1-711(1).

<sup>41</sup> “As used in this section, unless the context otherwise requires, ‘emergency drug or alcohol overdose event’ means an acute condition including, but not limited to, physical illness, coma, mania, hysteria, or death resulting from the consumption or use of a controlled substance, or of alcohol, or another substance with which a controlled substance or alcohol was combined, and that a layperson would reasonably believe to be a drug or alcohol overdose that requires medical assistance.” Colo. Rev. Stat. § 18-1-711(5).

<sup>42</sup> “A person is immune from arrest and prosecution for an offense” of possession of a controlled substance. Colo. Rev. Stat. § 18-1-711(1); (3)(a).

<sup>43</sup> “A person is immune from arrest and prosecution for an offense” of possession of drug paraphernalia. Colo. Rev. Stat. § 18-1-711(1); (3)(g).

<sup>44</sup> The immunity provisions are contained in two separate statutes, Conn. Gen. Stat. § 21a-267(d) (paraphernalia possession) and Conn. Gen. Stat. § 21a-279(d) (drug possession). The two sections were enacted simultaneously and the text is nearly identical.

<sup>45</sup> Good faith “does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or a lawful search.” Conn. Gen. Stat. § 21a-267(d); Conn. Gen. Stat. § 21a-279(d).

<sup>46</sup> Certain prohibitions “shall not apply” to seekers or person experiencing an overdose. Conn. Gen. Stat. § 21a-279(d).

<sup>47</sup> “The provisions of subsection (a) of this section shall not apply.” Conn. Gen. Stat. § 21a-267(d).

<sup>48</sup> Immunity is provided under Conn. Gen. Stat. § 21a-267(d) for violations of Conn. Gen. Stat. § 21a-267(a), which prohibits the “use or possess[ion] with intent to use drug paraphernalia . . . to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, any controlled substance, as defined in subdivision (9) of section 21a-240, other than cannabis.”

<sup>49</sup> Not noted on this table, the law was amended effective March 16, 2021, to include immunity for someone who administers an opioid antagonist to themselves or others and to someone who is a bystander of any covered activity. Immunity from possession of drug paraphernalia with the intent to use it to administer a controlled substance was removed as DC repealed the law on possession of drug paraphernalia. Further, seeking healthcare or administering an opioid antagonist may now be used as mitigation in any offense, not just a drug or alcohol related offense. Mar. 16, 2021, D.C. Law 23-182, § 2, 68 DCR 8.

<sup>50</sup> In this section, “overdose” means “an acute condition of physical illness, coma, mania, hysteria, seizure, cardiac arrest, cessation of breathing, or death, which is or reasonably appears to be the result of consumption or use of drugs or alcohol and relates to an adverse reaction to or the quantity ingested of the drugs or alcohol, or to a substance with which the drugs or alcohol was combined.” D.C. Code § 7-403(i)(3).

<sup>51</sup> “Notwithstanding any other law, the offenses listed in subsection (b) of this section shall not be considered crimes and shall not serve as the sole basis for revoking or modifying a person’s supervision status,” including “unlawful possession of a controlled substance.” D.C. Code § 7-403(a); (b)(1).

<sup>52</sup> “Notwithstanding any other law, the offenses listed in subsection (b) of this section shall not be considered crimes,” including unlawful possession of drug paraphernalia. D.C. Code § 7-403 (a); (b)(2).

<sup>53</sup> The offense for which immunity is granted “shall not serve as the sole basis for revoking or modifying a person’s supervision status.” D.C. Code § 7-403(a). “Supervision status” is defined as “probation or release pending trial, sentencing, appeal, or completion of sentence, for a violation of District law.” D.C. Code § 7-403(i)(4).

<sup>54</sup> The good faith seeking of health care for oneself or another “may be considered by the court as a mitigating factor in any criminal prosecution or sentencing for an offense that is not listed in subsection (b) of this section.” D.C. Code § 7-403(c).

<sup>55</sup> In this section, “‘overdose’ means an acute condition including, but not limited to, physical illness, coma, mania, hysteria, or death resulting from the consumption or use of an ethyl alcohol, a controlled substance, another substance with which a controlled substance was combined, a noncontrolled prescription drug, or any combination of these, including any illicit or licit substance; provided that a person’s condition shall be deemed to be an overdose if a layperson could reasonably believe that the condition is in fact an overdose and requires medical assistance.” Del. Code tit. 16, § 4769(a)(2).

<sup>56</sup> “The immunity granted shall apply to all offenses in this chapter that are not class A, B, or C felonies.” Del. Code tit. 16, § 4769(c). Per § 4763, regarding possession of controlled substances or counterfeit controlled substances, subsection (b) stipulates that “any person who violates subsection (a) of this section shall be guilty of a class B misdemeanor.” Del. Code tit. 16, § 4763(b). Therefore, possession of controlled substances, regardless of the amount, is a covered offense.

<sup>57</sup> “The immunity granted shall apply to all offenses in this chapter that are not class A, B, or C felonies, including but not limited to . . . [p]ossession of drug paraphernalia as described in §§ 4762(c) [repealed] and 4771 of this title . . . .” Del. Code tit. 16, § 4769(c)(4).

<sup>58</sup> “A person who is experiencing an overdose or other life-threatening medical emergency and anyone (including the person experiencing the emergency) seeking medical attention for that person shall not be arrested, charged or prosecuted for an offense for which they have been granted immunity pursuant to subsection (c) and/or (d) of this section, or subject to the revocation or modification of the conditions of probation . . . .” Del. Code tit. 16, § 4769(b).

<sup>59</sup> Immunity is also provided for “all offenses in this chapter that are not class A, B, or C felonies,” including certain offenses concerning underage drinking, marijuana possession, as well as “[m]iscellaneous drug crimes as described in § 4757 (a)(3), (6), and (7) of this title.” Del. Code tit. 16, § 4769(c).

<sup>60</sup> Fla. Stat. § 893.21 was amended in 2019 in several substantive ways. First, immunity from “arrest” was added, as was immunity related to alcohol-related overdoses. Immunity from paraphernalia arrest, charge, and prosecution was added, as was a section which provides that individuals who receive immunity “may not be penalized for violation of a condition of pretrial release, probation, or parole if the evidence of such violation was obtained as a result of the person’s seeking medical assistance.” Law was also modified to include people believed to be experiencing an overdose, not just those actually experiencing one.

<sup>61</sup> While it is likely that the law was intended to provide immunity from crimes for the person who experienced an overdose, it only explicitly gives protection from violation of conditions of pretrial release, probation, or parole.

<sup>62</sup> Under Fla. Stat. § 893.21, a person is provided immunity from violation of Fla. Stat. § 893.13(6), excluding paragraph (c). Per Fla. Stat. 893.13(6)(c), “a person may not possess more than 10 grams of any substance named or described in s. 893.03(1)(a), (1)(b), or (2)(b), or any combination thereof, or any mixture containing any such substance.” These include most schedule 1 and some schedule 2 substances.

<sup>63</sup> “A person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose may not be arrested, charged, prosecuted, or penalized for a violation of s. 893.147(1) or s. 893.13(6), excluding paragraph (c), if the evidence for such offense was obtained as a result of the person’s seeking medical assistance.” Fla. Stat. § 893.21(1). “A person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and is in need of medical assistance may not be arrested, charged, prosecuted, or penalized for a violation of s. 893.147(1) or s. 893.13(6), excluding paragraph (c), if the evidence for such offense was obtained as a result of the person’s seeking medical assistance.” Fla. Stat. § 893.21(2).

<sup>64</sup> Both the seeker and the person experiencing an overdose cannot be “penalized for a violation of a condition of pretrial release, probation, or parole if the evidence for such violation was obtained as a result of the person’s seeking medical assistance.” Fla. Stat. § 893.21(3).

<sup>65</sup> “Mitigating circumstances under which a departure from the lowest permissible sentence is reasonably justified include, but are not limited to: . . . (n) The defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.” Fla. Stat. § 921.0026(2)(n).

<sup>66</sup> “‘Medical assistance’ means aid provided to a person by a health care professional licensed, registered, or certified under the laws of this state who, acting within his or her lawful scope of practice, may provide diagnosis, treatment, or emergency medical services.” Ga. Code Ann. § 16-13-5(a)(3). “‘Seeks medical assistance’ means accesses or assists in accessing the 9-1-1 system or otherwise contacts or assists in contacting law enforcement or a poison control center and provides care to a person while awaiting the arrival of medical assistance to aid such person.” Ga. Code Ann. § 16-13-5(a)(4).

<sup>67</sup> In this section, “drug overdose” means “an acute condition, including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, resulting from the consumption or use of a controlled substance or dangerous drug by the distressed individual in violation of this chapter or that a reasonable person would believe to be resulting from the consumption or use of a controlled substance or dangerous drug by the distressed individual.” Ga. Code Ann. § 16-13-5(a)(1).

<sup>68</sup> Immunity is granted for drug violations including the following: “(A) A violation of subsection (a) of Code Section 16-13-30 for possession of a controlled substance if the aggregate weight, including any mixture, is less than four grams of a solid substance, less than one milliliter of liquid substance, or if the substance is placed onto a secondary medium with a combined weight of less than four grams; (B) A violation of paragraph (1) of subsection (j) of Code Section 16-13-30 for possession of less than one ounce of marijuana . . . .” Ga. Code Ann. § 16-13-5(a)(2)(A)–(B).

<sup>69</sup> Immunity is granted for drug violations including “[a] violation of Code Section 16-13-32.2, relating to possession and use of drug related objects.” Ga. Code Ann. § 16-13-5(a)(2)(C).

<sup>70</sup> “Any such person shall also not be subject to, if related to the seeking of such medical assistance: . . . (2) Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole based on a drug violation.” Ga. Code Ann. § 16-13-5(b)(2).

<sup>71</sup> “Any such person shall also not be subject to, if related to the seeking of such medical assistance: (1) Penalties for a violation of a permanent or temporary protective order or restraining order.” Ga. Code Ann. § 16-13-5(b)(1).

<sup>72</sup> In this section, “drug or alcohol overdose” is defined as “(1) A condition, including but not limited to extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, that is the result of consumption or use of a controlled substance or alcohol or a substance with which the controlled substance or alcohol was combined; or (2) A condition that a layperson would reasonably believe to be a drug or alcohol overdose that requires medical assistance.” Haw. Rev. Stat. § 329-43.6(a)(1)–(2).

<sup>73</sup> “‘Seeks medical assistance’ or ‘seeking medical assistance’ includes but is not limited to reporting a drug or alcohol overdose to law enforcement, the 911 system, a poison control center, or a medical provider; assisting someone so reporting; or providing care to someone who is experiencing a drug or alcohol overdose while awaiting the arrival of medical assistance.” Haw. Rev. Stat. § 329-43.6(a).

<sup>74</sup> Covered persons “shall not be arrested, charged, prosecuted, or convicted; have their property subject to civil forfeiture; or otherwise be penalized for: (1) Possession of a controlled substance or drug paraphernalia under this chapter or part IV of chapter 712.” Haw. Rev. Stat. § 329-43.6(b)(1).

<sup>75</sup> Covered persons “shall not be arrested, charged, prosecuted, or convicted; have their property subject to civil forfeiture; or otherwise be penalized for: (1) Possession of a controlled substance or drug paraphernalia under this chapter or part IV of chapter 712.” Haw. Rev. Stat. § 329-43.6(b)(1).

<sup>76</sup> Covered person cannot be penalized for “violation of probation or parole.” Haw. Rev. Stat. § 329-43.6(b)(4).

<sup>77</sup> Covered persons “shall not be arrested, charged, prosecuted, or convicted; have their property subject to civil forfeiture; or otherwise be penalized for: . . . (3) Violation of a restraining order.” Haw. Rev. Stat. § 329-43.6(b)(3).

<sup>78</sup> Haw. Rev. Stat. § 329-43.6(b).

<sup>79</sup> “The act of seeking medical assistance for someone who is experiencing a drug or alcohol overdose shall be considered by the court as a mitigating factor in any controlled substance or alcohol-related criminal prosecution for which immunity is not provided by this section.” Haw. Rev. Stat. § 329-43.6(c).

<sup>80</sup> In this section, “Drug-related overdose” is defined as “a condition of a person for which each of the following is true: (1) The person is in need of medical assistance. (2) The person displays symptoms including but not limited to extreme physical illness, pinpoint pupils, decreased level of consciousness including coma, or respiratory depression. (3) The person’s condition is the result of, or a prudent layperson would reasonably believe such condition to be the result of, the consumption or use of a controlled substance.” Iowa Code § 124.418(1)(a).

<sup>81</sup> In this section, an “overdose reporter” is defined as “a person who seeks medical assistance for an overdose patient and who has not previously received immunity under this section.” Iowa Code § 124.418(1)(c). “Overdose patient” is defined as “a person who is, or would reasonably be perceived to be, suffering a drug-related overdose and who has not previously received immunity under this section.” Iowa Code § 124.418(1)(b).

<sup>82</sup> Protected information “shall not be considered to support probable cause and shall not be admissible as evidence against an overdose patient or overdose reporter” for possession of a controlled substance under section 124.401, subsection 5. Iowa Code § 124.418(2)(b).

<sup>83</sup> Protected information “shall not be considered to support probable cause and shall not be admissible as evidence against an overdose patient or overdose reporter” for paraphernalia-related offenses. Iowa Code § 124.418(2)(d).

<sup>84</sup> “A person’s pretrial release, probation, supervised release, or parole shall not be revoked based on protected information.” Iowa Code § 124.418(3).

<sup>85</sup> Only if such delivery involved the sharing of the controlled substance without profit. Iowa Code § 124.418(2)(a).

<sup>86</sup> Iowa Code § 124.418(2)(c) provides immunity from violation of Iowa Code § 124.407. Under Iowa Code § 124.407(1), “It is unlawful for any person to sponsor, promote, or aid, or assist in the sponsoring or promoting of a meeting, gathering, or assemblage with the knowledge or intent that a controlled substance be there distributed, used, or possessed, in violation of this chapter.”

<sup>87</sup> Iowa Code § 124.418(2)(d) provides immunity from violation of Iowa Code § 124.414. Under Iowa Code § 124.414(2), “It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.”

<sup>88</sup> “Notwithstanding any other provision of law to the contrary, a court may consider the act of providing first aid or other medical assistance to someone who is experiencing a drug-related overdose as a mitigating factor in a criminal prosecution.” Iowa Code § 124.418(4).

<sup>89</sup> Immunity is provided for a person acting in good faith who seeks medical assistance for “any person” experiencing a drug-related medical emergency. Idaho Code Ann. § 37-2739C(1).

<sup>90</sup> Controlled substances classified in schedule I, II, III, IV, V are all covered in Idaho Code Ann. § 37-2732(c). Immunity from charge or prosecution for possession of controlled substances pursuant to section 37-2732(c) and (e) is provided under Idaho Code Ann. § 37-2739C(1). Thus, drug possession protection is given for any amount of a controlled substance. This protection includes marijuana felonies, as, “[i]f any person is found to possess marijuana . . . in an amount greater than three (3) ounces net weight, it shall be a felony.” Idaho Code Ann. § 37-2732(e).

<sup>91</sup> Both the seeker and the person experiencing overdose “shall not be charged or prosecuted for . . . using or possessing with intent to use drug paraphernalia pursuant to section 37-2734A(1).” Idaho Code Ann. § 37-2739C(1)–(2).

<sup>92</sup> Protection is also provided from charge and possession for being under the influence of a controlled substance. Idaho Code Ann. § 37-2739C(1).

<sup>93</sup> Protections apply “if the evidence for the charge of possession of or using or being under the influence of a controlled substance or using or possessing drug paraphernalia was obtained as a result of the person seeking medical assistance” or “was obtained as a result of the medical emergency and the need for medical assistance.” Idaho Code Ann. § 37-2739C(1)–(2).

<sup>94</sup> 730 Ill. Comp. Stat. § 5/5-5-3.1(a)(14) has been amended many times since the protection for those who call for help was added, but not in any way that affects the information in this table. Effective April 27, 2021, 720 Ill. Comp. Stat. § 570/414 has been amended to include protection from arrest in addition to charge and prosecution, and has added protection from seizure of property and violation of parole, supervised release, probation or conditional discharge. Also Effective April 27, 2021, 720 Ill. Comp. Stat. § 646/115 enacted similar amendments. Effective January 1, 2022, 720 Ill. Comp. Stat. § 570/414 was amended to prevent specified violations from serving as the sole basis of a violation of a individual's pretrial release or furlough.

<sup>95</sup> “A person who, in good faith, seeks emergency medical assistance for someone experiencing an overdose shall not be arrested, charged or prosecuted . . . .” 720 Ill. Comp. Stat. Ann. 646/115(b). “A person who, in good faith, seeks or obtains emergency medical assistance for someone experiencing an overdose shall not be arrested, charged, or prosecuted . . . .” 720 Ill. Comp. Stat. Ann. 570/414(b).

<sup>96</sup> An Illinois appeals court has clarified that the person who overdosed may be entitled to immunity even where they only “passively received” assistance as a result of citizen reports that she was unresponsive; such a person does not need to actively take any steps to obtain assistance. *People v. Teper*, 74 N.E.3d 1011 (Ill. App. Ct. 2016).

<sup>97</sup> In the section pertaining to Class 3 felony, “overdose” is defined as “a methamphetamine-induced physiological event that results in a life-threatening emergency to the individual who ingested, inhaled, injected, or otherwise bodily absorbed methamphetamine.” 720 Ill. Comp. Stat. 646/115(a). For the section pertaining to Class 4 felony, “overdose” is defined as a “controlled substance-induced physiological event that results in a life-threatening emergency to the individual who ingested, inhaled, injected or otherwise bodily absorbed a controlled, counterfeit, or look-alike substance or a controlled substance analog.” 720 Ill. Comp. Stat. § 570/414(a).

<sup>98</sup> “For the purposes of subsections (b) and (c), the limited immunity shall only apply to a person possessing the following amount: (1) less than 3 grams of a substance containing heroin; (2) less than 3 grams of a substance containing cocaine; (3) less than 3 grams of a substance containing morphine; (4) less than 40 grams of a substance containing peyote; (5) less than 40 grams of a substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid; (6) less than 40 grams of a substance containing amphetamine or any salt of an optical isomer of amphetamine; (7) less than 3 grams of a substance containing lysergic acid diethylamide (LSD), or an analog thereof; (8) less than 6 grams of a substance containing pentazocine or any of the salts, isomers and salts of isomers of pentazocine, or an analog thereof; (9) less than 6 grams of a substance containing methaqualone or any of the salts, isomers and salts of isomers of methaqualone; (10) less than 6 grams of a substance containing phencyclidine or any of the salts, isomers and salts of isomers of phencyclidine (PCP); (11) less than 6 grams of a substance containing ketamine or any of the salts, isomers and salts of isomers of ketamine; (12) less than 40 grams of a substance containing a substance classified as a narcotic drug in Schedules I or II, or an analog thereof, which is not otherwise included in this subsection. 720 Ill. Comp. Stat. § 570/414(d).

<sup>99</sup> 720 Ill. Comp. Stat. § 646/115(b)–(c); 720 Ill. Comp. Stat. § 570/414(b)–(c).

<sup>100</sup> “A person who, in good faith, seeks or obtains emergency medical assistance for someone experiencing an overdose shall not be arrested, charged, or prosecuted for a violation of . . . Section 3.5 of the Drug Paraphernalia Control Act.” 720 Ill. Comp. Stat. § 570/414(b).

<sup>101</sup> “The violations listed in this subsection (b) must not serve as the sole basis of a violation of parole, mandatory supervised release, probation, or conditional discharge, a person's pretrial release, or furlough, 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.” 720 Ill. Comp. Stat. Ann. 570/414(b). “The violations listed in this subsection (b) must not serve as the sole basis of a violation of parole, mandatory supervised release, probation, or conditional discharge, 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.” 720 Ill. Comp. Stat. Ann. 646/115(b).

<sup>102</sup> “The following grounds shall be accorded weight in favor of withholding or minimizing a sentence of imprisonment: . . . (14) The defendant sought or obtained emergency medical assistance for an overdose and was convicted of a Class 3 felony or higher possession, manufacture, or delivery of a controlled, counterfeit, or look-alike substance or a controlled substance analog under the Illinois Controlled Substances Act or a Class 2 felony or higher possession, manufacture or delivery of methamphetamine under the Methamphetamine Control and Community Protection Act.” 730 Ill. Comp. Stat. § 5/5-5-3.1(a).

<sup>103</sup> This is the date that the law that provides mitigation went into effect. The main Good Samaritan law went into effect July 1, 2016.

<sup>104</sup> Prior to July 1, 2016, only the mitigation statute was in effect. From July 1, 2016, through June 30, 2019, the law read, “(6) IC 35-48-4-11.5 (possession of a synthetic drug or synthetic drug lookalike substance).” The section was modified to read, “An offense under IC 35-48-4 involving possession of a synthetic drug (as defined in IC 35-31.5-2-321), possession of a controlled substance analog (as defined in IC 35-48-1-9.3), or possession of a substance represented to be a controlled substance (as described in IC 35-48-4-4.6).”

<sup>105</sup> While the language does not explicitly state that the protections apply only to a person who seeks assistance for another, the context makes it relatively clear that that was the intent.

<sup>106</sup> A “law enforcement officer may not take an individual into custody” if the individual: (1) obtained an overdose intervention drug in accordance with state law; (2) administered the overdose intervention drug in accordance with state law; (3) provided the individual's full name and any other relevant information requested by the law enforcement officer; (4) remained at the scene with the individual who reasonably appeared to need medical assistance until emergency medical assistance arrived; (5) cooperated with emergency medical assistance personnel and law enforcement officers at the scene; and (6) came into contact with law enforcement because the

individual requested emergency medical assistance for another individual who appeared to be experiencing an opioid related overdose. Ind. Code § 16-42-27-2(g).

<sup>107</sup> The law provides that a law enforcement officer “may not take an individual into custody” where certain conditions are met. Ind. Code § 16-42-27-2(g). Further, an individual who meets relevant criteria “is immune from criminal prosecution.” Ind. Code § 16-42-27-2(h).

<sup>108</sup> Immunity is provided from Ind. Code § 35-38-4-7, the general controlled substance possession law, as well as Ind. Code § 35-38-4-6 (possession of cocaine), Ind. Code § 35-38-4-6.1 (possession of methamphetamine), Ind. Code § 35-38-4-11 (possession of marijuana), as well as possession offenses involving a synthetic drug, a controlled substance analog, or a substance represented to be a controlled substance. Ind. Code § 16-42-27-2(h).

<sup>109</sup> Immunity is provided for violations of Ind. Code § 35-48-4-8.3 (possession of paraphernalia). Ind. Code § 16-42-27-2 (h)(4).

<sup>110</sup> The court can consider various factors as mitigating circumstances or as favoring suspending the sentence and imposing probation including: “(12) The person was convicted of a crime relating to a controlled substance and the person’s arrest or prosecution was facilitated in part because the person: (A) requested emergency medical assistance; or (B) acted in concert with another person who requested emergency medical assistance; for an individual who reasonably appeared to be in need of medical assistance due to the use of alcohol or a controlled substance.” Ind. Code § 35-38-1-7.1(b)(12).

<sup>111</sup> In this section, “drug overdose” is defined as “an acute condition of physical illness, coma, mania, hysteria, seizure, cardiac arrest, cessation of breathing, or death which reasonably appears to be the result of consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe requires medical assistance.” Ky. Rev. Stat. Ann. § 218A.133(1)(a). The definition of “good faith” does not cover “seeking medical assistance during the course of the execution of an arrest warrant, or search warrant, or a lawful search.” Ky. Rev. Stat. Ann. § 218A.133(1)(b).

<sup>112</sup> Despite this language, the state appellate court has ruled in an unpublished opinion that the statute requires actual, as opposed to apparent or perceived, overdose and need for medical assistance. See *Commonwealth v. Milner*, No. 2018-CA-001547-MR, 2019 WL 5280800 (Ky. Ct. App. Oct. 18, 2019).

<sup>113</sup> The law states that a person will not be charged or prosecuted for a criminal offense prohibiting the possession of a controlled substance or possession of drug paraphernalia without specifying any amounts. Ky. Rev. Stat. Ann. § 218A.133(2).

<sup>114</sup> The law provides immunity from charge or prosecution for possession of drug paraphernalia. Ky. Rev. Stat. Ann. § 218A.133(2).

<sup>115</sup> Effective August 1, 2022, amendments to the law added the following: (1) immunity for the use of a controlled substance and for the possession of drug paraphernalia; (2) protections from violations of pretrial release, probation, parole, and civil forfeiture; (3) protection from arrest for the person experiencing a drug-related overdose; and (4) a provision which allows for the act of providing or seeking first aid or other medical assistance for someone who is experiencing a drug overdose to be used as a mitigating factor in a criminal prosecution. The amendments also eliminated an exception to protections for a person who illegally provided or administered a controlled substance to the person experiencing a drug-related overdose.

<sup>116</sup> The statute provides immunity for a person acting in good faith who seeks assistance “for an individual.” La. Stat. Ann. § 14:403.10(A).

<sup>117</sup> The statute provides immunity for a person acting in good faith who seeks assistance “for an individual.” La. Stat. Ann. § 14:403.10(A).

<sup>118</sup> Louisiana courts have held that an “overdose” must be of a lethal, toxic, or poisonous amount that is capable of causing death or serious injury, rather than one which is merely dangerous, “too great a dose,” or causing a lower level of consciousness. *State v. Brooks*, 210 So.3d 514, 16-345 (La. App. 5 Cir. 2016), although the Louisiana Supreme Court held, in denying a Writ of Certiorari in a different case, that while the overdose does not need to be “life-threatening,” it does need to require medical assistance. *State v. Jago*, 228 So.3d 1218 (La. Sup. Ct. 2017).

<sup>119</sup> “A person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession or use of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law or of possession of drug paraphernalia as defined in R.S. 40:1021 if the evidence for such offenses was obtained as a result of the person’s seeking medical assistance.” La. Stat. Ann. § 14:403.10(A)(1).

<sup>120</sup> “A person who experiences a drug-related overdose and is in need of medical assistance shall not be arrested, charged, prosecuted, or penalized for possession or use of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law or for possession of drug paraphernalia as defined in R.S. 40:1021 if the evidence for such offenses was obtained as a result of the overdose and the need for medical assistance.” La. Stat. Ann. § 14:403.10(B)(1).

<sup>121</sup> “A person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession or use of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law or of possession of drug paraphernalia as defined in R.S. 40:1021 if the evidence for such offenses was obtained as a result of the person’s seeking medical assistance.” La. Stat. Ann. § 14:403.10(A)(1).

<sup>122</sup> “A person who experiences a drug-related overdose and is in need of medical assistance shall not be arrested, charged, prosecuted, or penalized for possession or use of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law or for possession of drug paraphernalia as defined in R.S. 40:1021 if the evidence for such offenses was obtained as a result of the overdose and the need for medical assistance.” La. Stat. Ann. § 14:403.10(B)(1).

<sup>123</sup> Covered individuals are not subject to sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole, related to the incident which required medical assistance. La. Stat. Ann. § 14:403.10(A)(2)(a), (B)(2)(a).

<sup>124</sup> See La. Stat. Ann. § 14:403.10(A)(2)(b), (B)(2)(b).



<sup>125</sup> “The act of providing or seeking first aid or other medical assistance for someone who is experiencing a drug overdose may be used as a mitigating factor in a criminal prosecution for which immunity provided by Subsection B of this Section is not provided.” La. Stat. Ann. § 14:403.10(D).

<sup>126</sup> Immunity from prosecution under section 35, which prohibited being knowingly present at a place where heroin is kept or deposited, was removed, as that section has been repealed. Immunity was added for “violation of a condition of probation or pretrial release as determined by a court or a condition of parole, as determined by the parole board.” Mass. Gen. Laws ch. 94C, § 34A(a)–(b).

<sup>127</sup> Immunity is provided for “possession of a controlled substance under section 34”. Mass. Gen. Laws ch. 94C, § 34A(a). That section prohibits, among other things, the knowing or intentional possession of a controlled substance unless obtained pursuant to relevant law. Mass. Gen. Laws Ch. 94C, § 34A(a).

<sup>128</sup> Possession of paraphernalia is not criminalized in Massachusetts.

<sup>129</sup> A person who calls for help is not “violation of a condition of probation or pretrial release as determined by a court or a condition of parole, as determined by the parole board” if the evidence for the charge of possession of a controlled substance or violation was gained as a result of seeking medical assistance for another OR gained as a result of the overdose and the need for medical assistance. Mass. Gen. Laws Ch. 94C, § 34A(a)–(b).

<sup>130</sup> “Nothing contained in this section shall prevent anyone from being charged with trafficking, distribution or possession of a controlled substance with intent to distribute.” Mass. Gen. Laws Ch. 94C, § 34A(d).

<sup>131</sup> “The act of seeking medical assistance for someone who is experiencing a drug-related overdose may be used as a mitigating factor in a criminal prosecution under the Controlled Substance Act, 1970 P.L. 91-513, 21 U.S.C. section 801, et seq.” Mass. Gen. Laws Ann. Ch. 94c, § 34A(c). Because a state law cannot provide protection from a federal law, it is not clear what effect, if any, this provision has in practice.

<sup>132</sup> The law was amended several times from its enactment in 2009. The 2009 law only provided mitigation. The law was first amended in 2014 to add protection from prosecution for possession of drugs and drug paraphernalia for both the seeker and the victim, as well as those who provide or assist with providing medical assistance. Md. Code, Crim. Proc. § 1-210. The law was further amended effective October 1, 2015 to add protection for “a violation of a condition of pretrial release, probation, or parole.” Also, immunity from arrest and charge for a violation were added, as was protection from newly added section 5-620 (controlled paraphernalia). Lastly, rather than providing assistance to a person “experiencing a medical emergency,” a person now only needs to provide assistance to a person “reasonably believed to be” experiencing a medical emergency. Md. Code, Crim. Proc. § 1-210. There were no substantive changes in amendments effective March 14, 2016.

<sup>133</sup> The language appears to apply only to a person who seeks assistance for themselves, and not a person who is the subject of assistance from another: “A person who, in good faith, seeks, provides, or assists with the provision of medical assistance for a person reasonably believed to be experiencing a medical emergency after ingesting or using alcohol or drugs . . .” Md. Code Ann., Crim. Proc. § 1-210(b).

<sup>134</sup> Immunity is provided for a violation of Md. Code, Crim. Law § 5-601, which prohibits illegal possession of drugs.

<sup>135</sup> Immunity is provided for a violation of Md. Code, Crim. Law § 5-619, which prohibits possession with intent to use drug paraphernalia.

<sup>136</sup> This protection applies only to the person who seeks, provides, or assists, and not the person who experienced the overdose. “A person who seeks, provides, or assists with the provision of medical assistance in accordance with subsection (b) or (c) of this section may not be sanctioned for a violation of a condition of pretrial release, probation, or parole if the evidence of the violation was obtained solely as a result of the person seeking, providing, or assisting with the provision of medical assistance.” Md. Code, Crim. Proc. § 1-210(d).

<sup>137</sup> Immunity is provided for violations of Md. Code, Crim. Law § 5-620.

<sup>138</sup> “The act of seeking, providing, or assisting with the provision of medical assistance for another person who is experiencing a medical emergency after ingesting or using alcohol or drugs may be used as a mitigating factor in a criminal prosecution of: (1) the person who experienced the medical emergency; or (2) any person who sought, provided, or assisted in the provision of medical assistance.” Md. Code, Crim. Proc. § 1-210(a).

<sup>139</sup> Amendments effective August 8, 2022, replaced nearly the entirety of the law.

<sup>140</sup> “Protected person” is defined as “a person who in good faith calls for assistance for another person experiencing a suspected drug-related overdose, any person rendering aid at the location of the suspected drug-related overdose and any person who is experiencing a suspected drug-related overdose.” Me. Stat. tit. 17-A § 1111-B(1)(B)

<sup>141</sup> A protected person is immune from arrest or prosecution for all but excluded crimes as specified under Me. Stat. tit. 17-A § 1111-B(1)(A).

<sup>142</sup> A protected person is immune from arrest or prosecution for all but excluded crimes as specified under Me. Stat. tit. 17-A § 1111-B(1)(A).

<sup>143</sup> “Except when the charge or conviction is for an excluded crime, a protected person is immune from revocation proceedings with regard to conditions of release as described in Title 15, chapter 105-A, subchapter 5; probation as described in chapter 67, subchapter 1; administrative release as described in chapter 67, subchapter 2; or supervised community confinement as described in Title 34-A, section 3036-A and is immune from termination proceedings for deferred disposition violations as described in chapter 67, subchapter 4 or termination from community confinement monitoring as described in Title 30-A, section 1659-A, if: A. The grounds for the revocation or termination proceeding against the protected person are obtained as a result of a medical professional's or law enforcement officer's responding to a request for medical assistance; or B. The identity of the protected person is learned or the protected person is identified as a person subject to a revocation or termination proceeding as a result of a medical professional's or law enforcement officer's responding to a request for medical assistance.” Me. Stat. tit. 17-A, § 1111-B(3).

<sup>144</sup> A protected person is immune from arrest or prosecution for all but excluded crimes as specified under Me. Stat. tit. 17-A § 1111-B(1)(A).

<sup>145</sup> Michigan law provides protection in two separate sections: Mich. Comp. Laws § 333.7403 and Mich. Comp. Laws § 333.7404. § 333.7403 applies to possession and § 333.7404 to use. The Good Samaritan provisions are identical. From March 15, 2016, to January 3, 2017, the protection applied only to individuals under the age of 21, and only to prescription drugs. That was changed effective January 4, 2017, to apply to people of all ages and all controlled substances and controlled substance analogs.

<sup>146</sup> In this section, “drug overdose” is defined as a “condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, that is the result of consumption or use of a controlled substance or a controlled substance analogue or a substance with which the controlled substance or controlled substance analogue was combined, or that a layperson would reasonably believe to be a drug overdose that requires medical assistance.” Mich. Comp. Laws § 333.7403(7)(a); Mich. Comp. Laws § 333.7404(6)(a). “Seeks medical assistance” is defined as “reporting a drug overdose or other medical emergency to law enforcement, the 9-1-1 system, a poison control center, or a medical provider, or assisting someone in reporting a drug overdose or other medical emergency.” Mich. Comp. Laws § 333.7403(7)(b); Mich. Comp. Laws § 333.7404(6)(b).

<sup>147</sup> Individuals who meet the requirements “are not in violation of this section.” Mich. Comp. Laws § 333.7403(3)(a); Mich. Comp. Laws § 333.7404(3)(a). Pertains to “an amount sufficient only for personal use” Mich. Comp. Laws § 333.7403(3)(a); Mich. Comp. Laws § 333.7404(3)(a).

<sup>148</sup> Simple possession of drug paraphernalia is not a crime in Michigan. Mich. Comp. Laws § 333.7453.

<sup>149</sup> While the section of the law pertaining to seeking medical assistance refers only to seeking medical assistance for “another person”, the section that provides immunity to an individual who experienced a drug-related overdose and needs medical assistance is not contingent on any individual seeking assistance. Therefore, a person who is experiencing an overdose and seeks assistance for themselves would be covered. *See generally* Minn. Stat. § 604A.05.

<sup>150</sup> “Good faith does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or a lawful search.” Minn. Stat. § 604A.05 Subd. 1. In this section, “drug-related overdose” is defined as “an acute condition, including mania, hysteria, extreme physical illness, or coma, resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe to be a drug overdose that requires immediate medical assistance.” Minn. Stat. § 604A.05 Subd. 5.

<sup>151</sup> A person who seeks medical assistance for a drug-related overdose “may not be charged or prosecuted for the possession, sharing, or use of a controlled substance under section 152.023, subdivision 2, clauses (4) and (6), 152.024, or 152.025, or possession of drug paraphernalia.” Minn. Stat. § 604A.05 Subd. 1; Subd. 2.

<sup>152</sup> A person who seeks medical assistance for a drug-related overdose “may not be charged or prosecuted for the possession, sharing, or use of a controlled substance under section 152.023, subdivision 2, clauses (4) and (6), 152.024, or 152.025, or possession of drug paraphernalia.” Minn. Stat. §§ 604A.05 Subd. 1; Subd. 2.

<sup>153</sup> “A person’s pretrial release, probation, furlough, supervised release, or parole shall not be revoked based on an incident for which the person would be immune from prosecution under subdivision 1 or 2.” Minn. Stat. § 604A.05 Subd. 3. However, “[n]othing in this section shall . . . prevent probation officers from conducting drug testing of persons on pretrial release, probation, furlough, supervised release, or parole.” Minn. Stat. § 604A.05 Subd. 4(b)(4).

<sup>154</sup> While the text of the law provides protection from charge and prosecution for “possession, sharing, or use” of a controlled substance under enumerated sections of the law, the referenced sections of law appear to prohibit only possession. Minn. Stat. § 604A.05 Subd. 1.

<sup>155</sup> “The act of providing first aid or other medical assistance to someone who is experiencing a drug-related overdose may be used as a mitigating factor in a criminal prosecution for which immunity is not provided.” Minn. Stat. § 604A.05 Subd. 4(a).

<sup>156</sup> “Drug or alcohol overdose” is defined as “a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death which is the result of consumption or use of a controlled substance or alcohol or a substance with which the controlled substance or alcohol was combined, or that a person would reasonably believe to be a drug or alcohol overdose that requires medical assistance.” Mo. Rev. Stat. § 195.205(1)(1). “Medical assistance” includes, but is not limited to, reporting a drug or alcohol overdose or other medical emergency to law enforcement, the 911 system, a poison control center, or a medical provider; assisting someone so reporting; or providing care to someone who is experiencing a drug or alcohol overdose or other medical emergency while awaiting the arrival of medical assistance.” Mo. Rev. Stat. § 195.205(1)(2).

<sup>157</sup> Immunity is provided for actions prohibited under Mo. Rev. Stat. § 579.015, which prohibits the possession of a controlled substance without regard to the amount. Mo. Rev. Stat. § 195.205(2)(1).

<sup>158</sup> Immunity is provided for actions prohibited under Mo. Rev. Stat. § 579.074, which prohibits possession of drug paraphernalia. Mo. Rev. Stat. § 195.205(2)(1).

<sup>159</sup> Immunity is provided for violating probation or parole. Mo. Rev. Stat. § 195.205(2)(4).

<sup>160</sup> The law also provides protection for the crime of “keeping or maintaining a public nuisance” as prohibited by Mo. Rev. Stat. § 579.105. Mo. Rev. Stat. § 195.205(2)(1).

<sup>161</sup> Minor change was made effective July 1, 2016 to change immunity from 30 grams or less of marijuana or synthetic cannabinoids to 30 grams or less of marijuana or ten grams or less of synthetic cannabinoids.

<sup>162</sup> “Drug overdose” is defined as “an acute condition, including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, resulting from the consumption or use of a controlled substance or dangerous drug in violation of this chapter or that a layperson would reasonably believe to be resulting from the consumption or use of a controlled substance or dangerous drug for which medical assistance is required.” Miss. Code Ann. § 41-29-149.1(2)(a). “Medical assistance” is defined as “aid provided to a person experiencing or believed to be experiencing a drug overdose by a health care

professional who is licensed, registered, or certified under the laws of this state and who, acting within the lawful scope of practice, may provide diagnosis, treatment, or emergency services relative to the overdose.” Miss. Code Ann. § 41-29-149.1(2)(c). “Seeks medical assistance” is defined as “accesses or assists in accessing the E-911 system or otherwise contacts or assists in contacting law enforcement or a poison control center or provides care to a person experiencing or believed to be experiencing a drug overdose while awaiting the arrival of medical assistance to aid the person.” Miss. Code Ann. § 41-29-149.1(2)(d).

<sup>163</sup> “Drug violation” means: (i) A violation of Section 41-29-139 for possession of a controlled substance if the aggregate weight, including any mixture, is less than four (4) grams of a solid substance, less than twenty (20) dosage units, less than one (1) milliliter of liquid substance, or, if the substance is placed onto a secondary medium, has a combined weight of less than four (4) grams; (ii) A violation of Section 41-29-139 for possession of thirty (30) grams or less of marijuana or ten (10) grams or less of synthetic cannabinoids; or (iii) A violation of Section 41-29-139(d)(2) relating to possession and use of paraphernalia.” Miss. Code Ann. § 41-29-149.1(2)(b).

<sup>164</sup> “A violation of Section 41-29-139(d)(2) relating to possession and use of paraphernalia” constitutes a covered “drug violation” for the purposes of the law. Miss. Code Ann. § 41-29-149.1(2)(b)(iii).

<sup>165</sup> If related to seeking medical assistance, a person shall not be subject to “[s]anctions for a violation of a condition of pretrial release, condition of probation, or condition of parole based on a drug violation.” Miss. Code Ann. § 41-29-149.1(3)(c)(ii).

<sup>166</sup> If related to seeking medical assistance, a person shall not be subject to “[f]orfeiture of property pursuant to Section 41-29-153 or 41-29-176 for a drug violation, except that prima facie contraband shall be subject to forfeiture..” Miss. Code Ann. § 41-29-149.1(3)(c)(iii).

<sup>167</sup> The law was amended in 2019 to provide protection specific to pregnant women. Specifically, the provisions of 45-9-102, 45-9-107, and 45-10-103 do not apply to pregnant women seeking or receiving evaluation, treatment, or support services for a substance use disorder. Mont. Code Ann. § 50-32-609(2). Also, per the newly added section 6(c), the law cannot be construed to “create a new cause of action or other source of criminal liability for a pregnant woman with a substance use disorder who does not seek or receive evaluation, treatment, or support services for a substance use disorder.” Mont. Code Ann. § 50-32-609(6)(c).

<sup>168</sup> While the section of the statute regarding calling for assistance specifies that the help must be sought for “another person,” the section that provides immunity to the person who experiences a drug-related overdose applies regardless of how medical assistance was obtained. We therefore believe that a person who calls for assistance for themselves would be covered. See Mont. Code Ann. § 50-32-609.

<sup>169</sup> Protection is provided to “a person who, acting in good faith, seeks medical assistance *for another person*.” Mont. Code Ann. § 50-32-609(1)(a) (emphasis added).

<sup>170</sup> “The provisions of 45-9-102, 45-9-107, and 45-10-103 do not apply to a pregnant woman seeking or receiving evaluation, treatment, or support services for a substance use disorder.” Mont. Code Ann. § 50-32-609(2).

<sup>171</sup> The following provisions “do not apply” to a person granted immunity under the law: Mont. Code Ann. § 45-9-102 (Criminal possession of dangerous drugs) and Mont. Code Ann. § 45-9-107 (Criminal possession of precursors to dangerous drugs). Mont. Code Ann. § 50-32-609(1).

<sup>172</sup> The law against possession of drug paraphernalia (Mont. Code Ann. § 45-10-103) does not apply where requirements are met. Mont. Code Ann. § 50-32-609(1).

<sup>173</sup> “A person’s pretrial release, probation, furlough, supervised release, or parole may not be revoked based on an incident for which the person would be immune from arrest, charge, or prosecution under this section.” Mont. Code Ann. § 50-32-609(4).

<sup>174</sup> The provisions of Mont. Code Ann. § 45-5-626 do not apply to a person who qualifies for immunity under the Good Samaritan law. Mont. Code Ann. § 50-32-609(1). That section makes it a crime to violate an order of protection.

<sup>175</sup> “A person’s act of providing first aid or other medical assistance to a person who is experiencing an actual or reasonably perceived drug-related overdose may be used as a mitigating factor in a criminal prosecution for which immunity is not provided under this section.” Mont. Code Ann. § 50-32-609(5).

<sup>176</sup> The law was amended in 2015 in several substantive ways. All of the requirements regarding being the first to call, providing own name, etc., were added. Also added were protection from probation and parole violations, as well as civil immunity for law enforcement officers. N.C. Gen. Stat. § 90-96.2.

<sup>177</sup> Immunity applies if “[t]he person sought medical assistance for an individual experiencing a drug-related overdose.” N.C. Gen. Stat. § 90-96.2 (b)(1).

<sup>178</sup> “Drug-related overdose” is defined as “an acute condition, including mania, hysteria, extreme physical illness, coma, or death resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe to be a drug overdose that requires medical assistance.” N.C. Gen. Stat. § 90-96.2(a).

<sup>179</sup> “A person shall have limited immunity from prosecution under subsections (b) and (c) of this section for only the following offenses: (1) A misdemeanor violation of G.S. 90-95(a)(3). (2) A felony violation of G.S. 90-95(a)(3) for possession of less than one gram of cocaine. (3) A felony violation of G.S. 90-95(a)(3) for possession of less than one gram of heroin. (4) A violation of G.S. 90-113.22.” N.C. Gen. Stat. § 90-96.2(c3).

<sup>180</sup> “A person shall have limited immunity from prosecution under subsections (b) and (c) of this section for . . . [a] violation of G.S. 90-113.22.” N.C. Gen. Stat. § 90-96.2(c3).

<sup>181</sup> “A person shall not be subject to arrest or revocation of pretrial release, probation, parole, or post-release if the arrest or revocation is based on an offense for which the person is immune from prosecution under subsection (b) or (c) of this section. The arrest of a person for an offense for which subsection (b) or (c) of this section may provide the person with immunity will not itself be deemed to be a commission of a new criminal offense in violation of a condition of the person’s pretrial release, condition of probation, or condition of

parole or post-release.” N.C. Gen. Stat. § 90-96.2(c1). However, “[n]othing in this section shall be construed to. . . limit or abridge the authority of a probation officer to conduct drug testing of persons on pretrial release, probation, or parole.” N.C. Gen. Stat. § 90-96.2(d).

<sup>182</sup> The law provides protection from N.C. Gen. Stat. § 90-113.22, which prohibits both the possession and use of paraphernalia. N.C. Gen. Stat. § 90-96.2(c3)(4).

<sup>183</sup> Law was amended on April 21, 2017, in several substantive ways. A good faith requirement was added, a specific requirement that the seeker contact law enforcement or EMS was replaced with a more generic “seeks medical assistance,” a limit on the number of people who can receive immunity to 3 was removed, and a limitation that the immunity doesn’t apply unless the evidence for charge or prosecution was obtained as a result of the overdose and the need for emergency medical assistance was added. Changes made in 2019 were not substantive.

<sup>184</sup> Immunity is provided where individual “seeks medical assistance for another individual.” N.D. Cent. Code § 19-03.1-23.4.

<sup>185</sup> “Neither the individual who experiences a drug-related overdose and is in need of emergency medical assistance nor the cooperating individual seeking medical assistance may be charged or prosecuted.” N.D. Cent. Code § 19-03.1-23.4.

<sup>186</sup> “Good faith does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or during a lawful search.” N.D. Cent. Code § 19-03.1-23.4.

<sup>187</sup> Individual is immune from criminal prosecution under subsection 7 of section 19-03.1-23, which encompasses all amounts of controlled substance, controlled substance analog, and marijuana possession. N.D. Cent. Code § 19-03.1-23.4.

<sup>188</sup> Individual is immune from criminal prosecution for possession of drug paraphernalia under N.D. Cent. Code § 19-03.4-03. N.D. Cent. Code § 19-03.1-23.4.

<sup>189</sup> Immunity is also provided for inhalation of certain substances under N.D. Cent. Code § 19-03.1-22.1, ingesting controlled substances under N.D. Cent. Code § 19-03.1-22.3, using controlled substance analogs under N.D. Cent. Code § 19-03.1-22.5, and unlawful use of drug paraphernalia under N.D. Cent. Code § 19-03.4-03.

<sup>190</sup> “Drug overdose” is defined as an “acute condition including, but not limited to, physical illness, coma, mania, hysteria, or death resulting from the consumption or use of a controlled substance or the consumption or use of another substance with which a controlled substance was combined and which condition a layperson would reasonably believe requires emergency medical assistance.” Neb. Rev. Stat. § 28-472(6).

<sup>191</sup> Immunity is granted for violations of subsection (3) of section 28-416, which classifies any possession of controlled substances as a class IV felony. Neb. Rev. Stat. § 28-472(1). Presumably, the language would provide protection from arrest, charge, and prosecution to those who qualify.

<sup>192</sup> Immunity is granted for violations of Neb. Rev. Stat. § 28-441, which prohibits illegal possession of drug paraphernalia. Neb. Rev. Stat. § 28-472(1).

<sup>193</sup> Amendments effective August 17, 2021, pertain to reporting violent crimes and do not effect the data in this table.

<sup>194</sup> “Drug overdose” is defined as “an acute condition resulting from or believed to be resulting from the use of a controlled drug which a layperson would reasonably believe requires medical assistance.” N.H. Rev. Stat. Ann § 318-B:28-b(l)(a). “Medical assistance” is defined as “professional services provided to a person experiencing a drug overdose by a health care professional licensed, registered, or certified under state law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment, or emergency services for a person experiencing a drug overdose.” N.H. Rev. Stat. Ann § 318-B:28-b(l)(b). “Requests medical assistance” shall include a request for medical assistance as well as providing care to someone who is experiencing a drug overdose while awaiting the arrival of medical assistance to aid the overdose victim.” N.H. Rev. Stat. Ann. § 318-B:28-b(l)(c).

<sup>195</sup> Immunity for possession of controlled drug in violation of N.H. Rev. Stat. Ann § 318-B:2, which covers all amounts of controlled substances. N.H. Rev. Stat. Ann. § 318-B:28-b(II)–(III). However, immunity is not provided for possession with intent to sell. *State v. Eldridge*, 173 N.H. 61 (2020).

<sup>196</sup> Possession of paraphernalia is not criminalized in New Hampshire.

<sup>197</sup> Immunity provisions apply to “[a] person who experiences a drug overdose and who seeks medical assistance or is the subject of a good faith request for medical assistance.” N.J. Rev. Stat. § 2C:35-31(a).

<sup>198</sup> Immunity is provided for possession of controlled substance in violation of N.J. Rev. Stat. § 2C:35-10, which covers all amounts of controlled substances. N.J. Rev. Stat. § 2C:35-30(a)(1).

<sup>199</sup> Immunity is provided for possession of drug paraphernalia in violation of N.J. Rev. Stat. § 2C:36-2. N.J. Rev. Stat. § 2C:35-30(a)(6).

<sup>200</sup> Those covered by the law are not “subject to revocation of parole or probation based only upon a violation of offenses described in subsection a. (1) through (6) of this section, provided, however, this circumstance may be considered in establishing or modifying the conditions of parole or probation supervision.” N.J. Rev. Stat. § 2C:35-30(7).

<sup>201</sup> Immunity applies to “using, being under the influence of, or failing to make lawful disposition of, a controlled dangerous substance or controlled substance analog,” as well as a variety of other drug-related crimes. N.J. Rev. Stat. § 2C:35-30(a); N.J. Rev. Stat. § 2C:35-31(a).

<sup>202</sup> The law was amended in 2019 in several substantive ways. First, immunity from arrest, prosecution, and other penalties was added, as was immunity related to alcohol-related overdoses (previously, immunity was only provided for being “charged or prosecuted”). Protection from civil forfeiture, violation of a restraining order, violating conditions of probation or parole, and use and possession of drug paraphernalia were also added. Lastly, the definition of “seeking medical assistance” was added. N.M. Stat. § 30-31-27.1.

<sup>203</sup> Immunity is provided to a “person who, in good faith, seeks medical assistance for someone experiencing an alcohol- or drug-related overdose.” N.M. Stat. § 30-31-27.1(A).

<sup>204</sup> “Seeking medical assistance” means “(1) reporting an alcohol- or drug-related overdose or other medical emergency to law enforcement, the 911 system or another emergency dispatch system, a poison control center or a health care provider; or (2) assisting

an individual who is reporting an alcohol- or drug-related overdose or providing care to an individual who is experiencing an alcohol- or drug-related overdose or other medical emergency while awaiting the arrival of a health care provider.” N.M. Stat. § 30-31-27.1(D).

<sup>205</sup> Immunity is provided for possession of controlled drugs in violation of N.M. Stat. § 30-31-23, which covers all quantities of controlled substances. N.M. Stat. § 30-31-27.1(A)(1);(B)(1).

<sup>206</sup> Immunity is provided for possession of drug paraphernalia in violation of subsection A of N.M. Stat. 30-31-25.1. N.M. Stat. § 30-31-27.1(A)(1); (B)(1).

<sup>207</sup> Violating the conditions of probation or parole violation is not grounds for arrest, charge, prosecution, or other penalty for either the seeker or the person experiencing the overdose so long as the evidence for the violation was obtained as a result of a need for seeking medical assistance during an overdose. N.M. Stat. § 30-31-27.1(A)(3); (B)(3).

<sup>208</sup> “The act of seeking medical assistance for someone who is experiencing an alcohol- or drug-related overdose may be used as a mitigating factor in a criminal prosecution pursuant to the Controlled Substances Act for which immunity is not provided pursuant to this section.” N.M. Stat. § 30-31-27.1(C).

<sup>209</sup> Amendments effective July 1, 2020, and May 28, 2021, did not result in substantive changes.

<sup>210</sup> “Drug or alcohol overdose” is defined as “a condition, including, without limitation, extreme physical illness, a decreased level of consciousness, respiratory depression, coma, mania or death which is caused by the consumption or use of a controlled substance or alcohol, or another substance with which a controlled substance or alcohol was combined, or that an ordinary layperson would reasonably believe to be a drug or alcohol overdose that requires medical assistance.” Nev. Rev. Stat. § 453C.150(5).

<sup>211</sup> The law provides immunity for possession of controlled drugs in violation of Nev. Rev. Stat. § 453.336, which covers all amounts of controlled substances. Nev. Rev. Stat. § 453C.150(1)(a)(3).

<sup>212</sup> The law provides immunity for possession of drug paraphernalia including, without limitation, Nev. Rev. Stat. §§ 453.554 to 453.566, inclusive. Nev. Rev. Stat. § 453C.150(1)(a)(1).

<sup>213</sup> A seeker for help will not be penalized for violating a condition of the person’s parole or probation. Nev. Rev. Stat. § 453C.150(1)(d).

<sup>214</sup> Immunity applies to the use of a controlled substance. Nev. Rev. Stat. § 453C.150(a)(3).

<sup>215</sup> Immunity applies to use of drug paraphernalia, including, without limitation, Nev. Rev. Stat. §§ 453.554 to 453.566, inclusive. Nev. Rev. Stat. § 453C.150(a)(1).

<sup>216</sup> Immunity applies to “[a] local ordinance as described in NRS 453.3361 that establishes an offense that is similar to an offense set forth in NRS 453.336.” Nev. Rev. Stat. § 453C.150(1)(b).

<sup>217</sup> “A court, before sentencing a person who has been convicted of a violation of chapter 453 of NRS for which immunity is not provided by this section, shall consider in mitigation any evidence or information that the defendant, in good faith, sought medical assistance for a person who was experiencing a drug or alcohol overdose or other life-threatening emergency in connection with the events that constituted the violation.” Nev. Rev. Stat. § 453C.150(2).

<sup>218</sup> Amendments effective March 31, 2021, made some changes regarding cannabis offenses, but they do not affect the data in this table.

<sup>219</sup> “Drug or alcohol overdose” or “overdose” is defined as “an acute condition including, but not limited to, physical illness, coma, mania, hysteria or death, which is the result of consumption or use of a controlled substance or alcohol and relates to an adverse reaction to or the quantity of the controlled substance or alcohol or a substance with which the controlled substance or alcohol was combined; provided that a patient’s condition shall be deemed to be a drug or alcohol overdose if a prudent layperson, possessing an average knowledge of medicine and health, could reasonably believe that the condition is in fact a drug or alcohol overdose and (except as to death) requires health care.” N.Y. Penal Law § 220.78(3)(a). “Health care” is defined as “the professional services provided to a person experiencing a drug or alcohol overdose by a health care professional licensed, registered or certified under title eight of the education law or article thirty of the public health law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment or emergency services for a person experiencing a drug or alcohol overdose.” N.Y. Penal Law § 220.78(3)(b).

<sup>220</sup> The statute that created the overdose Good Samaritan law as N.Y. Penal Law § 220.78 also modified a separate statute, N.Y. Penal Law § 220.03, which criminalizes the possession of a controlled substance in the seventh degree. Per this amendment, “...nor shall it be a violation of this section when a person’s unlawful possession of a controlled substance is discovered as a result of seeking immediate health care as defined in paragraph (b) of subdivision three of section 220.78 of the penal law, for either another person or him or herself because such person is experiencing a drug or alcohol overdose or other life threatening medical emergency as defined in paragraph (a) of subdivision three of section 220.78 of the penal law.” N.Y. Penal Law § 220.03. While the specifics vary, possession of other than a small amount of drugs is generally prohibited by other statutes, to which this provision does not apply.

<sup>221</sup> The overdose Good Samaritan law does not apply to “the prosecution of a class A-1 felony under this article.” N.Y. Penal Law § 220.78(6). The only relevant such felony appears in N.Y. Penal Law § 220.21, which applies to “one or more preparations, compounds, mixtures or substances containing a narcotic drug and said preparations, compounds, mixtures or substances are of an aggregate weight of eight ounces or more” and methadone that “weighs five thousand seven hundred sixty milligrams or more”. N.Y. Penal Law § 220.21. Therefore, protection from arrest is provided for simple possession of small amounts of drugs. Protection from charge and prosecution is provided for the possession of larger amounts of drugs – except those listed in N.Y. Penal Law § 220.21, for which no immunity is provided.

<sup>222</sup> Immunity is granted for “possession of drug paraphernalia under article thirty-nine of the general business law.” N.Y. Penal Law § 220.78(1)–(2).

<sup>223</sup> Covered individuals “shall not be charged or prosecuted for a controlled substance offense under this article or a cannabis offense under article two hundred twenty-two of this title, other than an offense involving sale for consideration or other benefit or gain.” N.Y. Penal Law § 220.78(1)–(2). However, the “bar to prosecution described in subdivisions one and two of this section shall not apply to the

prosecution of a class A-I felony.” N.Y. Penal Law § 220.78(6). Several non-possessory and non-sale offenses are included in this definition.

<sup>224</sup> “It shall be an affirmative defense to a criminal sale controlled substance offense under this article or a criminal sale of marihuana offense under article two hundred twenty-one of this title, not covered by subdivision one or two of this section, with respect to any controlled substance or marihuana which was obtained as a result of such seeking or receiving of health care, that: (a) the defendant, in good faith, seeks health care for someone or for him or herself who is experiencing a drug or alcohol overdose or other life threatening medical emergency; and (b) the defendant has no prior conviction for the commission or attempted commission of a class A-I, A-II or B felony under this article.” N.Y. Penal Law § 220.78(4).

<sup>225</sup> “The act of seeking health care for someone who is experiencing a drug or alcohol overdose or other life threatening medical emergency shall be considered by the court when presented as a mitigating factor in any criminal prosecution for a controlled substance, marihuana, drug paraphernalia, or alcohol related offense.” N.Y. Crim. Proc. Law § 390.40(3).

<sup>226</sup> Amendments were made to the statute effective October 31, 2018, and March 22, 2019, that did not affect the Good Samaritan provisions of the law. Effective April 4, 2023, amendments added protections for possession and use of drug paraphernalia and “drug abuse instruments.” Amendments also added protections for individuals serving a community control sanction or under a sanction on post-release control.

<sup>227</sup> “‘Seek or obtain medical assistance’ includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.” Ohio Rev. Code § 2925.11 (B)(2)(a)(ix).

<sup>228</sup> Ohio Rev. Code § 2925.11(B)(2)(b)(ii).

<sup>229</sup> “Division (B)(2)(b) of this section does not apply to any person who twice previously has been granted an immunity under division (B)(2)(b) of this section. No person shall be granted an immunity under division (B)(2)(b) of this section more than two times.” Ohio Rev. Code § 2925.11(B)(2)(e).

<sup>230</sup> Immunity is granted for violations of Ohio Rev. Code Ann. § 2925.12 (“Possessing drug abuse instruments”), division (C)(1) of Ohio Rev. Code Ann. § 2925.14 (prohibiting individuals from knowingly using and possessing with purpose to use drug paraphernalia), and Ohio Rev. Code Ann. § 2925.141 (“Illegal use or possession of marihuana drug paraphernalia”). Ohio Rev. Code § 2925.11(B)(2)(b).

<sup>231</sup> “If a person who is serving a community control sanction or is under a sanction on post-release control acts pursuant to division (B)(2)(b) of this section, then division (B) of section 2929.141, division (B)(2) of section 2929.15, division (D)(3) of section 2929.25, or division (F)(3) of section 2967.28 of the Revised Code applies to the person with respect to any violation of the sanction or post-release control sanction based on a minor drug possession offense, as defined in section 2925.11 of the Revised Code, or a violation of section 2925.12, division (C)(1) of section 2925.14, or section 2925.141 of the Revised Code.” Ohio Rev. Code § 2925.11(B)(2)(c).

<sup>232</sup> While the statute does not explicitly state that a person may not obtain immunity if they requested emergency assistance for themselves, the language strongly suggests that that was the intent.

<sup>233</sup> “A peace officer shall not take a person into custody based solely on the commission of an offense involving a controlled dangerous substance described in subsection B of this section if the peace officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that all of the following apply . . . .” Okla. Stat. tit, 63 § 2-413.1(A).

<sup>234</sup> The law requires that the individual “reasonably appeared to be in need of medical assistance due to the use of a controlled dangerous substance.” Okla. Stat. tit, 63 § 2-413.1(A)(2)(b).

<sup>235</sup> A peace officer “shall not take a person into custody” if they fall under the ambit of the law, but the statute does not explicitly state that they may not be arrested. Okla. Stat. tit, 63 § 2-413.1(A).

<sup>236</sup> An individual is immune from criminal prosecution for possession of Schedule I or Schedule II controlled dangerous substance as listed in Section 2-204 and 2-206 of Title 63 of the Oklahoma Statutes. Okla. Stat. tit, 63 § 2-413.1(2)(B). However, the amount of the controlled dangerous substance cannot reach the level constituting trafficking, as provided in subsection C of Section 2-415 of Title 63 of the Oklahoma Statutes. Okla. Stat. tit, 63 § 2-413.1(2)(B). Additionally, a person is only immune from prosecution if the offense “involved a state of intoxication caused by the use of a controlled dangerous substance by a person or if the offense involved the person being or becoming intoxicated as a result of the use of a controlled dangerous substance by a person.” Okla. Stat. tit, 63 § 2-413.1(B).

<sup>237</sup> Immunity is granted for “possession of drug paraphernalia associated with a controlled dangerous substance, as defined in paragraph 36 of Section 2-101 of Title 63 of the Oklahoma Statutes.” Okla. Stat. tit. 63, § 2-413.1(2)(B).

<sup>238</sup> Amendments were made to reflect the changing legal status of marijuana in Oregon in 2016 and 2017.

<sup>239</sup> “A person who is in need of medical assistance due to a drug-related overdose is immune from arrest or prosecution for an offense listed in subsection (3) of this section if the evidence of the offense was obtained because *any person* contacted emergency medical services...” (emphasis added). Or. Rev. Stat. § 475.898(2).

<sup>240</sup> “Drug-related overdose” is defined as “an acute condition, including mania, hysteria, extreme physical illness, coma or death, resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, that a person would reasonably believe to be a condition that requires medical attention.” Or. Rev. Stat. § 475.898(7)(b).

<sup>241</sup> Immunity is granted for “[p]ossession of a controlled substance as described in ORS 475.752.” Or. Rev. Stat. § 475.898(3)(b).

<sup>242</sup> While Oregon law does not prohibit the simple possession of drug paraphernalia, the Good Samaritan law provides protection from Or. Rev. Stat. § 475.525, which prohibits the possession of drug paraphernalia with intent to sell or deliver. Or. Rev. Stat. § 475.898(3)(k).

<sup>243</sup> “A person may not be arrested for violating, or found to be in violation of, the conditions of the person’s pretrial release, probation, post-prison supervision or parole if the violation involves: (A) The possession or use of a controlled substance or frequenting a place where controlled substances are used; and (B) The evidence of the violation was obtained because the person contacted emergency medical services or a law enforcement agency to obtain medical assistance for another person who needed medical assistance due to

a drug-related overdose.” Or. Rev. Stat. § 475.898(4)(a). “A person may not be arrested for violating, or found to be in violation of, the conditions of the person’s pretrial release, probation, post-prison supervision or parole if the violation involves: (A) The possession or use of a controlled substance or frequenting a place where controlled substances are used; and (B) The evidence of the violation was obtained because the person was in need of medical assistance due to a drug-related overdose and any person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.” Or. Rev. Stat. § 475.898(4)(b).

<sup>244</sup> Immunity also applies to “[f]requenting a place where controlled substances are used.” Or. Rev. Stat. § 475.898(3)(a).

<sup>245</sup> A person may not be arrested on an outstanding warrant for any of the offenses for which immunity is granted in the law “if the location of the person was obtained because the person contacted emergency medical services or a law enforcement agency to obtain medical assistance for another person who needed medical assistance due to a drug-related overdose.” Or. Rev. Stat. § 475.898(5)(a). This immunity does not apply to outstanding federal warrants or outstanding warrants issued from other states. Or. Rev. Stat. § 475.898(5)(c).

<sup>246</sup> The overdose victim gets immunity even if the caller does not require immunity because they did not commit an offense for which immunity is provided under the statute. *Commonwealth v. Carontenuto*, 148 A.3d 448 (Pa. Super. 2016).

<sup>247</sup> A “drug overdose event” is defined as an “acute medical condition, including, but not limited to, severe physical illness, coma, mania, hysteria or death, which is the result of consumption or use of one or more controlled substances causing an adverse reaction. A patient’s condition shall be deemed to be a drug overdose if a prudent layperson, possessing an average knowledge of medicine and health, would reasonably believe that the condition is in fact a drug overdose and requires immediate medical attention.” 35 Pa. Cons. Stat. § 780-113.7(f).

<sup>248</sup> “The prohibition on charging or prosecuting a person as described in this section is limited in the following respects: (1) This section may not bar charging or prosecuting a person for offenses enumerated in subsection (b) if a law enforcement officer obtains information prior to or independent of the action of seeking or obtaining emergency assistance as described in subsection (a); (2) This section may not interfere with or prevent the investigation, arrest, charging or prosecution of a person for the delivery or distribution of a controlled substance, drug-induced homicide or any other crime not set forth in subsection (b); (3) This section may not bar the admissibility of any evidence in connection with the investigation and prosecution for any other prosecution not barred by this section; (4) This section may not bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the prohibition on charging or prosecuting a person as provided for by this section.” 35 Pa. Cons. Stat. § 780-113.7(d).

<sup>249</sup> Immunity is provided for possession of paraphernalia under 35 Pa. Cons. Stat. § 780-113(32). 35 Pa. Cons. Stat. § 780-113.7(b).

<sup>250</sup> “The prohibition on charging or prosecuting a person as described in subsection (a) bars charging or prosecuting a person for probation and parole violations . . . .” 35 Pa. Cons. Stat. § 780-113.7(b).

<sup>251</sup> Pennsylvania law also provides protection from delivery, possession with intent to deliver, or manufacture with intent to deliver drug paraphernalia under 35 Pa. Cons. Stat. § 780-113(a)(33). 35 Pa. Cons. Stat. § 780-113.7(b). Note also that a law requiring information regarding overdoses to be reported to a state “by an authorized user other than a law enforcement officer may not be used for a criminal investigation or prosecution of any individual who satisfies the exemption from criminal liability contained in [the Good Samaritan law]. 35 Pa. Stat. Ann. § 960.26.

<sup>252</sup> The first Good Samaritan law was self-repealed and expired on July 1, 2015. There was no Good Samaritan law in effect between July 1, 2015, and January 27, 2016, when the current law was enacted.

<sup>253</sup> Amendments effective July 2, 2018, added language regarding alcohol-related medical emergencies, and immunity for possession or transportation of alcohol by an underage person.

<sup>254</sup> Immunity is granted to “[a]ny person who, in good faith, without malice and in the absence of evidence of an intent to defraud, seeks medical assistance for someone experiencing a drug or alcohol overdose or other drug- or alcohol-related medical emergency.” R.I. Gen. Laws § 21-28.9-4(a).

<sup>255</sup> No amount of controlled substance is specified in the law. R.I. Gen Laws § 21-28.9-4(a)–(b).

<sup>256</sup> Simple possession of drug paraphernalia is not a crime in Rhode Island. R.I. Gen Laws § 21-28.5-1 et seq. However, the overdose Good Samaritan law provides that an eligible person “shall not be charged or prosecuted for any crime related to the possession of a controlled substance or drug paraphernalia.” R.I. Gen Laws § 21-28.9-4(a)–(b).

<sup>257</sup> “The immunity related to the possession of a controlled substance or drug paraphernalia, possession or transportation of alcohol by an underage person, or the operation of a drug-involved premises afforded under this section shall also extend to a violation of probation and/or parole on those grounds.” R.I. Gen Laws § 21-28.9-4(d).

<sup>258</sup> Immunity is also granted for “operation of a drug-involved premises.” R.I. Gen Laws § 21-28.9-4(a)–(b).

<sup>259</sup> The statute establishes that a person who provides first aid or other medical assistance to another person experiencing an overdose may use this as a mitigating factor in a criminal prosecution pursuant to the controlled substance act. R.I. Gen Laws § 21-28.9-4(c).

<sup>260</sup> The section of the law that provides immunity to the person who experienced OD does not make that immunity contingent on the manner in which the OD was discovered. It therefore seems possible for a person to obtain immunity under that provision even if they called for themselves. See S.C. Code Ann. § 44-53-1930(A).

<sup>261</sup> Immunity is provided for “[a] person who seeks medical assistance for another person.” S.C. Code Ann. § 44-53-1920(A).

<sup>262</sup> “Drug or alcohol-related overdose” is defined as “an acute condition, including mania, hysteria, extreme physical illness, coma, or death resulting from the consumption or use of a controlled substance, alcohol, or another substance with which a controlled substance or alcohol was combined, that a layperson would reasonably believe to be a drug or alcohol overdose that requires medical assistance.” S.C. Code Ann. § 44-53-1910(2). “Seeks medical assistance” is defined as “seeking medical assistance by contacting the 911 system, a law enforcement officer, or emergency services personnel.” S.C. Code Ann. § 44-53-1910(3).

<sup>263</sup> “If the person seeking medical assistance pursuant to this section previously has sought medical assistance for another person pursuant to this article, the court may consider the circumstances of the prior incidents and the related offenses to determine whether to grant the person immunity from prosecution.” S.C. Code Ann. § 44-53-1920(C).

<sup>264</sup> Law provides protection from possessing a controlled substance, as well as “possessing less than one gram of methamphetamine or cocaine base in violation of Section 44-53-375(A).” S.C. Code Ann. § 44-53-1920(B)(2)–(3).

<sup>265</sup> Immunity is provided for “possessing paraphernalia in violation of Section 44-53-391.” S.C. Code Ann. § 44-53-1920(B)(5).

<sup>266</sup> “A person who seeks medical assistance for another person in accordance with the requirements of subsection (A) may not be prosecuted for: (1) dispensing or delivering a controlled substance in violation of Section 44-53-370(a), when the controlled substance is dispensed or delivered directly to the person who appears to be experiencing a drug-related overdose; (2) possessing a controlled substance in violation of Section 44-53-370(c); (3) possessing less than one gram of methamphetamine or cocaine base in violation of Section 44-53-375(A); (4) dispensing or delivering methamphetamine or cocaine base in violation of Section 44-53-375(B), when the methamphetamine or cocaine base is dispensed or delivered directly to the person who appears to be experiencing a drug-related overdose; (5) possessing paraphernalia in violation of Section 44-53-391; (6) selling or delivering paraphernalia in violation of Section 44-53-391, when the sale or delivery is to the person who appears to be experiencing a drug-related overdose; (7) purchasing, attempting to purchase, consuming, or knowingly possessing alcoholic beverages in violation of Section 63-19-2440; (8) transferring or giving to a person under the age of twenty-one years for consumption beer or wine in violation of Section 61-4-90; or (9) contributing to the delinquency of a minor in violation of Section 16-17-490.” S.C. Code Ann. § 44-53-1920(B).

<sup>267</sup> “The court may consider a person's decision to seek medical assistance pursuant to Section 44-53-1920(A) or 44-53-1930 as a mitigating factor in a criminal prosecution or sentencing for a drug or alcohol-related offense that is not an offense listed in Section 44-53-1920(B).” S.C. Code Ann. § 44-53-1940.

<sup>268</sup> “Drug-related overdose” is defined as an “acute condition, including mania, hysteria, extreme physical illness, coma, or death resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to be a drug overdose that requires medical assistance.” S.D. Codified Laws § 34-20A-109(1).

<sup>269</sup> “Any person seeking medical assistance or who reports a person is in need of medical assistance shall only qualify once for immunity under §§ 34-20A-109 to 34-20A-112, inclusive.” S.D. Codified Laws § 34-20A-113.

<sup>270</sup> “No person may be arrested or prosecuted for any misdemeanor or felony offense of possession . . . .” S.D. Codified Laws § 34-20A-110. The law that provides protection for the seeker for self also includes immunity from being charged: “A person who experiences a drug-related overdose and is in need of medical assistance may not be arrested, charged, or prosecuted . . . .” S.D. Codified Laws § 34-20A-111.

<sup>271</sup> Immunity also applies to the “inhalation, ingestion, or otherwise taking into the body any controlled drug or substance.” S.D. Codified Laws § 34-20A-110.

<sup>272</sup> The statute establishes that a person who provides “first aid or other medical assistance” to another person experiencing an overdose may use this as a mitigating factor in a criminal prosecution for which immunity is not provided under the statute. S.D. Codified Laws § 34-20A-112.

<sup>273</sup> Effective July 1, 2023, the law will be amended to include the following caveat: “This immunity from being arrested, charged, or prosecuted shall apply to the person experiencing a drug overdose on the person's first such drug overdose. This immunity from being arrested, charged, or prosecuted may be applied if the person experiences subsequent drug overdoses at the discretion of the responding law enforcement officer or the district attorney general's office.” Tenn. Code Ann. § 63-1-156(b).

<sup>274</sup> “Drug overdose” is defined as “an acute condition, including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, resulting from the consumption or use of a controlled substance, or other substance inhaled, ingested, injected, or otherwise introduced into the body by the distressed individual that a reasonable person would believe to be resulting from the consumption or use of a controlled substance or other substance by the distressed individual.” Tenn. Code Ann. § 63-1-156(a)(2). “Medical assistance” is defined as “aid provided to a person by a healthcare professional licensed, registered, or certified under the laws of this state who, acting within the person's lawful scope of practice, may provide diagnosis, treatment, or emergency medical services.” Tenn. Code Ann. § 63-1-156(a)(4). “Seeks medical assistance” means: (A) Accesses or assists in accessing medical assistance or the 911 system; (B) Contacts or assists in contacting law enforcement or a poison control center; or (C) Provides care or contacts or assists in contacting any person or entity to provide care while awaiting the arrival of medical assistance to aid a person who is experiencing or believed to be experiencing a drug overdose.” Tenn. Code Ann. § 63-1-156(a)(5).

<sup>275</sup> “This immunity from being arrested, charged, or prosecuted shall apply to the person experiencing a drug overdose only on the person's first such drug overdose.” Tenn. Code Ann. § 63-1-156(b). Presumably the intent was not that the immunity literally only apply the first time the person overdosed, but rather that immunity will only be granted once. Effective July 1, 2023, the law will be amended to allow for immunity to be granted in subsequent incidences at the discretion of the responding law enforcement officer or the district attorney general's office.

<sup>276</sup> Immunity is provided only for simple possession and casual exchange of a controlled substance in violation of Tenn. Code Ann. § 39-17-418. Tenn. Code Ann. § 63-1-156(a)(3)(A).

<sup>277</sup> Immunity is provided for drug paraphernalia violations of Tenn. Code Ann. § 39-17-425. Tenn. Code Ann. § 63-1-156(a)(3)(B).

<sup>278</sup> Covered individuals are not subject to “[s]anctions for a violation of a condition of pretrial release, condition of probation, or condition of parole based on a drug violation.” Tenn. Code Ann. § 63-1-156(b)(2).

<sup>279</sup> Immunity is provided for violations of Tenn. Code Ann. § 39-17-418. Tenn. Code Ann. § 63-1-156(a)(3)(A).

<sup>280</sup> Immunity is provided for drug paraphernalia violations of Tenn. Code Ann. § 39-17-425. Tenn. Code Ann. § 63-1-156(a)(3)(B).



<sup>281</sup> The statute establishes that a person who provides "first aid or other medical assistance" to another person experiencing an overdose may use this as a mitigating factor in a criminal prosecution for which immunity is not provided under the statute. Tenn. Code Ann. § 63-1-156(c)(1).

<sup>282</sup> Each of the various laws cited contain provisions related to immunity that are substantively identical.

<sup>283</sup> See, e.g., Tex. Health & Safety Code Ann. § 481.115(g) ("It is a defense to prosecution for an offense punishable under Subsection (b) that the actor: . . . (2) was the victim of a possible overdose for which emergency medical assistance was requested, by the actor or by another person, during an ongoing medical emergency.").

<sup>284</sup> See, e.g., Tex. Health & Safety Code Ann. § 481.115(g) ("It is a defense to prosecution for an offense punishable under Subsection (b) that the actor: (1) was the first person to request emergency medical assistance in response to the possible overdose of another person and: (A) made the request for medical assistance during an ongoing medical emergency; (B) remained on the scene until the medical assistance arrived; and (C) cooperated with medical assistance and law enforcement personnel . . .").

<sup>285</sup> See, e.g., Tex. Health & Safety Code Ann. § 481.115(g) ("It is a defense to prosecution for an offense punishable under Subsection (b) that the actor: . . . (2) was the victim of a possible overdose for which emergency medical assistance was requested, by the actor or by another person, during an ongoing medical emergency.").

<sup>286</sup> See, e.g., Tex. Health & Safety Code Ann. § 481.115(g)(1).

<sup>287</sup> See, e.g., Tex. Health & Safety Code Ann. § 481.115(g)(2).

<sup>288</sup> See, e.g., Tex. Health & Safety Code Ann. § 481.115(h).

<sup>289</sup> See Tex. Health & Safety Code Ann. §§ 481.115(g) to .118(f) (protection for the possession of a substance in Penalty Group 1, 1-B, 1-A, 2, 2-A, 3 or 4); Tex. Health & Safety Code Ann. § 481.119(c) (protection for the manufacture, delivery, or possession of miscellaneous substances); Tex. Health & Safety Code Ann. § 481.121(c) (protection for possession of marijuana).

<sup>290</sup> See Tex. Health & Safety Code Ann. § 481.125(g) (protection for drug paraphernalia offenses).

<sup>291</sup> Tex. Health & Safety Code Ann. § 485.031(c).

<sup>292</sup> Tex. Health & Safety Code Ann. § 483.041(e).

<sup>293</sup> Tex. Health & Safety Code Ann. § 481.125(g).

<sup>294</sup> Effective May 12, 2020, amendments extended immunity to "the person or bystander" (instead of simply "the person") and provided immunity to a person who "assists a person who reports" in addition to a person who reports. Other prior and subsequent amendments—including amendments effective May 5, 2021, and May 4, 2022—did not include changes to the Good Samaritan provisions of law.

<sup>295</sup> "Good faith" does not include "seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search." Utah Code § 58-37-8(16)(c).

<sup>296</sup> Utah Code § 58-37-8(16)(c).

<sup>297</sup> Utah Code § 58-37-8(16)(a).

<sup>298</sup> The offenses for which an affirmative defense is available include the following: "(i) the possession or use of less than 16 ounces of marijuana; (ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act." Utah Code § 58-37-8(16)(b).

<sup>299</sup> A covered individual has an affirmative defense to an allegation of any violation of the Utah Drug Paraphernalia Act (Utah Code §§ 58-37a-1 to 37a-7). Utah Code § 58-37-8(16)(b)(iii).

<sup>300</sup> "It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah Controlled Substances Act, that the person or bystander: (1) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance; (2) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this section; (3) provides in the report under Subsection (2) a functional description of the location of the actual overdose event that facilitates responding to the person experiencing the overdose event; (4) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives; (5) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and (6) committed the offense in the same course of events from which the reported overdose arose." Utah Code § 76-3-203.11.

<sup>301</sup> Prior to July 1, 2020, Virginia's law provided only an affirmative defense to prosecution. It required everything the current law requires, but also required that, if requested by a law enforcement officer, the individual seeking immunity substantially cooperated in any investigation of any criminal offense reasonably related to the controlled substance or other substance. The requirement that the person cooperate with law enforcement was removed effective July 1, 2019. The current law, which moves from an affirmative defense to prosecution to immunity from arrest and prosecution, became effective July 1, 2020. In addition to that change, immunity for the person experiencing an overdose was added, as was immunity for law enforcement officers who make an improper arrest under the section in good faith. Effective July 1, 2021, the law was amended again to include protections for a person who provides medical assistance while another person is summoning emergency medical personnel.

<sup>302</sup> "Overdose" is defined as "a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances." Va. Code Ann. § 18.2-251.03(A).

<sup>303</sup> “No individual shall be subject to arrest or prosecution for . . . possession of a controlled substance pursuant to § 18.2-250 . . .” Va. Code Ann. § 18.2-251.03(B). Va. Code Ann. § 18.2-250 covers controlled substances in Schedules I-VI, and the corresponding misdemeanor or felony charges.

<sup>304</sup> “No individual shall be subject to arrest or prosecution for . . . possession of controlled paraphernalia pursuant to § 54.1-3466 . . .” Va. Code Ann. § 18.2-251.03(B).

<sup>305</sup> Effective June 17, 2014, immunity was extended to individuals who were the subject of a good faith request for medical assistance; previously immunity was provided only to the person seeking medical assistance. Vt. Stat. Ann. tit. 18, § 4254(g). There were no substantive changes in the 2017 legislation.

<sup>306</sup> In this section, “drug overdose” is defined as “an acute condition resulting from or believed to be resulting from the use of a regulated drug that a layperson would reasonably believe requires medical assistance. For purposes of this section, “regulated drug” shall include alcohol.” Vt. Stat. Ann. tit. 18, § 4254(a)(1). “Medical assistance” is defined as “professional services provided to a person experiencing a drug overdose by a health care professional licensed, registered, or certified under State law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment, or emergency services for a person experiencing a drug overdose.” Vt. Stat. Ann. tit. 18, § 4254(a)(2). “Seeks medical assistance” includes “providing care to someone who is experiencing a drug overdose while awaiting the arrival of medical assistance to aid the overdose victim.” Vt. Stat. Ann. tit. 18, § 4254(a)(3).

<sup>307</sup> “The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person’s seeking medical assistance for a drug overdose, being the subject of a good faith request for medical assistance, being at the scene, or being within close proximity to any person at the scene of the drug overdose for which medical assistance was sought and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.” Vt. Stat. Ann. tit. 18, § 4254(g).

<sup>308</sup> “The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person’s seeking medical assistance for a drug overdose, being the subject of a good faith request for medical assistance, being at the scene, or being within close proximity to any person at the scene of the drug overdose for which medical assistance was sought and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.” Vt. Stat. Ann. tit. 18, § 4254 (g).

<sup>309</sup> “A person who, in good faith and in a timely manner, seeks medical assistance for someone who is experiencing a drug overdose shall not be cited, arrested, or prosecuted for a violation of this chapter. . . .” Vt. Stat. Ann. tit. 18, § 4254(b).

<sup>310</sup> Simple possession of drug paraphernalia is not a crime in Vermont. Vt. Stat. Ann. tit. 18, § 4476.

<sup>311</sup> Seeker and person experiencing OD will “not be subject to any sanction for a violation of a condition of pretrial release, probation, furlough, or parole for a violation of this chapter or 7 V.S.A. § 656 for being at the scene of the drug overdose or for being within close proximity to any person at the scene of the drug overdose.” Vt. Stat. Ann. tit. 18, § 4254(e).

<sup>312</sup> Per Vermont law, a qualifying individual “shall not be cited, arrested, or prosecuted for a violation of this chapter.” Vt. Stat. Ann. tit. 18, § 4254(b)–(c). The chapter, “Possession and Control of Regulated Drugs,” covers most drug offenses. Civil forfeiture protection is provided as well.

<sup>313</sup> “The act of seeking medical assistance for or by someone who is experiencing a drug overdose shall be considered a mitigating circumstance at sentencing for a violation of any other offense.” Vt. Stat. Ann. tit. 18, § 4254(f).

<sup>314</sup> Changes made to Wash. Rev. Code § 69.50.315 on July 24, 2015, removed provisions allowing the obtaining, possession, and administration of naloxone, but made no changes to the Good Samaritan provisions. Several amendments to the mitigation law since June 10, 2010, have not affected the provisions regarding providing assistance to someone experiencing an overdose.

<sup>315</sup> “A person acting in good faith who seeks medical assistance for someone experiencing a drug-related overdose shall not be charged or prosecuted for possession of a controlled substance pursuant to RCW 69.50.4013, or penalized under RCW 69.50.4014, if the evidence for the charge of possession of a controlled substance was obtained as a result of the person seeking medical assistance.” Wash. Rev. Code § 69.50.315(1).

<sup>316</sup> Immunity is provided for possession of a controlled substance pursuant to Wash. Rev. Code Ann. § 69.50.4013 or possession of cannabis pursuant to Wash. Rev. Code Ann. § 69.50.4014. Wash. Rev. Code § 69.50.315(1)–(2).

<sup>317</sup> Simple possession of drug paraphernalia is not a crime in Washington. Wash. Rev. Code § 69.50.412.

<sup>318</sup> “The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences. . . . (i) The defendant was making a good faith effort to obtain or provide medical assistance for someone who is experiencing a drug-related overdose.” Wash. Rev. Code Ann. § 9.94A.535(1).

<sup>319</sup> Effective March 19, 2016, possession of a masking agent under § 961.69(2) was added to the list of immunities from criminal prosecution for an aider. Wis. Stat. § 961.443(2) (2016). Effective June 23, 2017 “emergency medical technician” was changed to “emergency medical services practitioner.” The law changed effective July 19, 2017, in several important ways. First, to be considered an “aider,” an individual must not only bring another person to a facility, but also “make[] contact with an individual who staffs the emergency room, hospital, fire station, or other health care facility.” Previously, protection was provided if the aider “believes” another person is suffering from an overdose; the revision changes the standard to “if a reasonable person would believe” another person is suffering from an overdose. Wis. Stat. § 961.443(1)(a) (2017). A subsection was added to provide immunity from revocation of parole, probation, or extended supervision. Wis. Stat. § 961.443(2)(b)(1) (2017). An additional section was created stating that district attorneys shall offer aided person, who is subject to prosecution for drug paraphernalia, controlled substance, controlled substance analog, or masking agent, a deferred prosecution agreement. Wis. Stat. § 961.443(2)(b)(2) (2017). On September 23, 2017, immunity for bail jumping under § 961.573 was added. Effective August 1, 2020, the sections regarding immunity for the aided person, as well as the protections from probation and parole violations and those for bail jumping, were removed. Wis. Stat. § 961.443(2).

<sup>320</sup> Protection from probation and parole violations were provided to the aided person if they met certain conditions from July 19, 2017, through July 31, 2020, but were removed as of that date.

<sup>321</sup> "In this section, "aider" is defined as "a person who does any of the following: (a) Brings another person to an emergency room, hospital, fire station, or other health care facility and makes contact with an individual who staffs the emergency room, hospital, fire station, or other health care facility if the other person is, or if a reasonable person would believe him or her to be, suffering from an overdose of, or other adverse reaction to, any controlled substance or controlled substance analog. (b) Summons and makes contact with a law enforcement officer, ambulance, emergency medical services practitioner, as defined in s. 356.01(5), or other health care provider, in order to assist another person if the other person is, or if a reasonable person would believe him or her to be, suffering from an overdose of, or other adverse reaction to, any controlled substance or controlled substance analog. (c) Calls the telephone number '911' or, in an area in which the telephone number '911' is not available, the number for an emergency medical service provider, and makes contact with an individual answering the number with the intent to obtain assistance for another person if the other person is, or if a reasonable person would believe him or her to be, suffering from an overdose of, or other adverse reaction to, any controlled substance or controlled substance analog." Wis. Stat. § 961.443(1).

<sup>322</sup> "An aider is immune from prosecution under s. 961.573 for the possession of drug paraphernalia, under s. 961.41(3g) for the possession of a controlled substance or a controlled substance analog, and under s. 961.69(2) for possession of a masking agent under the circumstances surrounding or leading to his or her commission of an act described in sub. (1)." Wis. Stat. Ann. § 961.443(2). Per Wis. Stat. Ann. § 961.41(3g), "[n]o person may possess or attempt to possess a controlled substance or a controlled substance analog unless the person obtains the substance or the analog directly from, or pursuant to a valid prescription or order of, a practitioner who is acting in the course of his or her professional practice, or unless the person is otherwise authorized by this chapter to possess the substance or the analog."

<sup>323</sup> "An aider is immune from prosecution under s. 961.573 for the possession of drug paraphernalia . . ." Wis. Stat. § 961.443(2).

<sup>324</sup> Protection from probation and parole violations for both the aider and the aided were provided from July 19, 2017, through July 31, 2020, but were removed as of that date.

<sup>325</sup> Amendments to W. Va. Code § 16-47-5 effective May 9, 2018, were not substantive.

<sup>326</sup> The law does not explicitly state that a person can not obtain immunity if they seek assistance for themselves. However, since one of the requirements is that the person seeking assistance remain with the person who overdosed, we think it likely that that was the intention.

<sup>327</sup> "[A] person who, in good faith and in a timely manner, seeks emergency medical assistance for a person who reasonably appears to be experiencing an overdose may not be held criminally responsible for a violation of the following: . . . (9) Knowingly or intentionally possessing a controlled substance or imitation controlled substance without a prescription, as prohibited by subsection (c), section four hundred one, article four, chapter sixty-a of this code . . ." W. Va. Code § 16-47-4(a).

<sup>328</sup> Simple possession of drug paraphernalia is not a crime in West Virginia. W. Va. Code § 47-19-1 et seq.

<sup>329</sup> "A person who seeks assistance pursuant to subsection (a) of this section is not subject to any sanction for a violation of a condition of pretrial release, probation, furlough or parole." W. Va. Code § 16-47-4(g).

<sup>330</sup> W. Va. Code § 16-47-4(a)(10).

<sup>331</sup> "Evidence of seeking emergency medical assistance for a person who reasonably appears to be experiencing an overdose may be considered by a court or jury as a mitigating factor in the sentencing phase of a criminal proceeding in a prosecution for which immunity is not granted . . ." W. Va. Code § 16-47-4(d).

<sup>332</sup> Wyoming does not prohibit the simple possession of paraphernalia, but it is "unlawful for any person to deliver, or possess with intent to deliver, drug paraphernalia." Wyo. Stat. Ann. § 35-7-1056.