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NO. 3-18-0071

IN THE

APPELLATE COURT OF THE STATE OF ILLINOIS

THIRD JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS	)	**Appeal from the Circuit Court**
	)	**Of the 10th judicial circuit**
Plaintiff - Appellant	)	**Tazewell County, Illinois**
	)	
v.	)	**No. 17 CF- 277**
	)	
ROBERT W. MARKHAM	)	**Honorable**
	)	**Stephan Kouri**
Defendant - Appellee	)	**Judge Presiding**

BRIEF OF HEROIN EPIDEMIC RELIEF ORGANIZATION - HERO AS *AMICI CURIAE* IN SUPPORT OF APPELLEE ROBERT W. MARKHAM

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A. Due Process

1. Constitution of the State of Illinois (Ill. Const. 1970, art. I; § 2)

2. United States Constitution (U.S. Constitution., amend IV and XIV).

3. 720 ILCS 570/414 (a) - (e)

4 ***People v Coleman, 111 Ill.2d 87, 96 (1986).***

5. ***People v. Madrigal; 241 Ill. 2d 463 (2011)***

B. Equal Protection

1. Constitution of the State of Illinois (Ill. Const. 1970, art. I; § 2)

2. United States Constitution (U.S. Constitution., amend XIV).

3. ***People v. Reed; 148 Ill.2d 1 (1992)***

STATEMENT OF INTEREST

This Amici Curiae Brief is brought on behalf of Robert W. Markham, an individual/defendant who was arrested for unlawful possession of a controlled substance pursuant to 720 ILCS 570/402 (c). Mr. Markham was arrested for illegal possession of a controlled substance by law enforcement in a response to a 911 call to save Mr. Markham's life from a drug overdose. On October 23, 2017; Mr. Markham , thru counsel filed a Motion to Dismiss the possession charge based on 720 ILCS 570/414, which provides limited immunity to prosecution for those seeking or obtaining emergency medical assistance for a drug overdose. The trial court granted Mr. Markham's Motion to Dismiss and the charge against him for illegal possession of a controlled substance were dismissed . The State brought an appeal pursuant to Supreme Court Rule 604 (a) from the final judgment of the trial court, granting the Defendant Markham's motion to dismiss the charges against him.

Defendant Markham is an individual whose life was saved from a drug overdose pursuant to a 911 telephone call for medical assistance. The medical assistance which arrived pursuant to the 911 call saved Defendant Markham's life.. Without proper medical assistance, Defendant Markham most likely would have died from an overdose of heroin. The legislative intent of this statute was to save lives of individuals overdosing from drug use. By granting Defendant Markham's Motion to Dismiss charges of illegal possession; the trial court followed Illinois law and sustained the legislative intent that an individual who seeks or obtains medical assistance from a drug overdose pursuant to

a 911 call should receive limited immunity from prosecution for illegal possession of a narcotic.

Amici is an organization that represents, serves and works on behalf of individuals who have suffered or are likely to suffer, from a drug overdose and saved by a 911 emergency call, as was the case with Defendant Markham. The Amici write separately because Defendant Markham's case raises a broad issue as to enforcement and viability of the Illinois Statute in reference to limited immunity from prosecution for possession of an illegal controlled substance as set forth in 720 ILCS 570/414 (a) - (e).

The citizens of the State of Illinois and this nation are suffering thru an epidemic and public health crisis from heroin/opiate drug overdose and resulting deaths approaching 60,000 individuals a year. 720 ILCS 570/414 (a) - (e), also commonly referred to as the Illinois " Good Samaritan Statute " was intended to shield overdose victims and 911 emergency callers from prosecution which would help save lives.

Amici submit that the Illinois " Good Samaritan Statute " (720 ILCS 570/414 (a) - (e) is an important legislation which was intended to be liberally construed to help , assist and save lives of those individuals suffering from drug overdose and those who call on that person's behalf to save lives. A reversal of the trial court's decision which granted Defendant Markham's Motion to Dismiss pursuant to 720 ILCS 570/414 (a) - (e) would be against the laws of this state and the legislative intent of the statute. Furthermore, Amici further opine that a reversal of the trial court's

decision to grant Defendant Markham's Motion to Dismiss would cause irreparable harm to thousands of individuals across this state who suffer from heroin/opiate use dependency disorder and suffering from a drug overdose. If an individual believes they or the person overdosing from a 911 emergency call would be prosecuted for illegal possession, the 911 call would not be made and a life lost.

Amici:

Hero Epidemic Relief Organization - Hero

Heroin Epidemic Relief Organization - Hero (hereafter HERO) is an Illinois Not-For-Profit 501 (c) (3) Corporation in Good Standing in the State of Illinois on an on going basis since October 17, 2011. HERO was co-founded by John Roberts of Homer Glen, Illinois and Brian Kirk of New Lenox, Illinois. Mr. Roberts is a retired Chicago Police Department Captain. Mr. Kirk is a retired former employee of the University of Illinois - Chicago. Both Mr. Roberts and Mr. Kirk lost children to heroin overdose.

Mr. Roberts was actively involved in the heroin legislation, both at the State Senate and State House of Representative levels, and assisted in the passing into law the Illinois " Good Samaritan Statute" in reference to drug overdose. Mr. Roberts, with his lengthy career in law enforcement as Captain in the Chicago Police Department advocated that this " Good Samaritan Law" would be instrumental in saving lives of individuals suffering from heroin/opiate overdose. Mr. Roberts' advocacy before the State Legislature on behalf of HERO was a substantial reason why the Good

Samaritan Law; 720 ILCS 570 414 (a) - (e) was passed into law in Illinois.

The mission for HERO is to stop the growing heroin/opioid epidemic that has rapidly swept thru the State of Illinois and across the nation. HERO advocates for those suffering from heroin/opiate substance abuse disorders through its own out reach programs and by supporting strategic pieces of legislation whose legislative intent is to help fight the effects of the heroin/opiate public health crisis. Heroin can no longer be said to be just an inner city problem. The heroin/opiate public health crisis affects families throughout our state, including many rural, small and often affluent suburban communities that were unprepared to face this problem.

It is position of HERO that the legislative intent of 720 ILCS 570/414 (a) - (e) was and continues to this day to save lives of individuals suffering from a drug overdose .

ARGUMENT

I. 720 ILCS 570/414 was Enacted by the Illinois Legislature for the Purpose of Saving Lives of Individuals Experiencing a Drug Overdose such as Mr. Markham and thousands of others in the State of Illinois

The citizens of the State of Illinois and nationwide are in the midst of a public health crisis regarding overdose related deaths from opioids and heroin. 720 ILCS 570/414 was enacted by the Illinois State Legislature for the purpose of saving lives of individuals who seek or obtain medical attention while experiencing a drug overdose. In an effort to help prevent overdose deaths, 720 ILCS 570/414 was enacted by the State Legislature to provide limited immunity from prosecution for Unlawful Possession of a Controlled Substance for many controlled substances, including heroin. The Statute provides for limited immunity both to the reporter of an overdose by a 911 emergency call and the overdose victim, so long as certain conditions were met. One of these conditions is that the amount of the drug involved could not be in excess of a certain weight amount. In the case of heroin, an individual may qualify for the limited immunity if the amount of heroin in possession of the overdose victim is 3 grams or less.

The Illinois Appellate Court - Second District has acknowledged that the purpose of 720 ILCS 570/414 was to encourage people to call 911 to help those suffering from drug overdoses. ***People v. Teper, 2016 Il App (2d) 160063 ¶ 23***

The Public Act which enacted 720 ILCS 414 has a preamble which states in relevant parts:

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

WHEREAS, the General Assembly finds the Drug-overdose deaths could be substantially decreased if immunity from criminal prosecution for Class 4 felony violations of the Illinois Controlled Substances Act and Class 3 felony violations of the Methamphetamine Control and Community Protection Act were granted to a person possessing a small amount of the drug who, in good faith, seeks emergency medical assistance for someone experiencing a drug related over-dose and if this immunity were granted for the same Class 4 felony violations of the Illinois Controlled Substances Act and the Class 3 felony violations of the Methamphetamine Control and Community Protection Act to a person who is experiencing a drug-related overdose.

(Public Act 97-678 § 5 ; effective June 1, 2012) (adding 720 ILCS 570/414)

Illinois enacted its Good Samaritan Law in 2012. Historically, nationwide, New Mexico became the first state to amend its laws to encourage Good Samaritans to summon and aid in the event of an overdose. As of September 14, 2015, thirty three other states and the District of Columbia have followed suit. (See Davis, C. S. 2015; Legal Interventions to Reduce Overdose Mortality. Naloxone Access and Overdose Good Samaritan Laws. Network for Public Health Law attached to and made part of this brief in the APPENDIX) Despite the actions of states such as Illinois who enacted such Good Samaritan Laws, the opiate/heroin public health crisis continues to be widespread and unabated.. More than 63,000 lives were lost to drug overdose in 2016, the most lethal year yet of the drug overdose epidemic, according to the US Centers for Disease Control and prevention. (See opioids Now Kill More People than Breast Cancers at http://www.wfmz.com/health/opiods-now-kill-more-people-than-breast-cancer/ 675807470 attached to and made part of this brief as part of the APPENDIX)

720 ILCS 570/414 (c) in part grants a person limited immunity from prosecution for illegal possession of a controlled substance of the " result of a person seeking or obtaining emergency medical assistance " for an individual suffering from a drug overdose. At issue in the case at bar, the PEOPLE are seeking by way of appeal to establish a standard upon which medical assistance will cease ; thus ending a person's immunity pursuant to 720 ILCS 570/414. The Amici take the position that the PEOPLE's argument in its brief to arbitrarily draw a line and cease medical attention, thereby ending an overdosing individual's limited right to immunity for prosecution for illegal possession of a controlled substance, would frustrate the State Legislature's intent in passing 720 ILCS 570/414 to save lives.

Defendant-Appellee Robert W. Markham (hereafter MARKHAM) was the beneficiary and prime example why 720 ILCS 570/414 , commonly referred to as the " Good Samaritan Law", was enacted to save human lives from the horrific ravages of the heroin/opiate public health crisis.

It was stipulated at MARKHAM's bench trial and acknowledged in the PEOPLE's Appellant Brief to this cause that MARKHAM and a female companion were using heroin. That the female companion found MARKHAM turning purple and was unconscious from a drug overdose. The female companion called the Tazewell County Sheriff's Department pursuant to a 911 call. That Tazewell County Sheriff Deputies were dispatched to the residence where MARKHAM was located. CPR was performed on MARKHAM by Sheriff deputies. Upon arriving at the residence where MARKHAM was

located, Sheriff deputies noticed a syringe and heroin. After receiving CPR, MARKHAM regained consciousness and began breathing on his own. Once revived; MARKHAM was charged with Unlawful possession of a Controlled Substance; 720 ILCS 570/ 402 (c). The 3 gram amount limitation of heroin was not at issue in MARKHAM's case . On October 23, 2017, MARKHAM through counsel filed a Motion to Dismiss pursuant 720 ILCS 570/414. On January 8, 2018 the trial Court granted MARKHAM's Motion to Dismiss. The PEOPLE then subsequently filed a timely appeal of the Trial Court's opinion.

The circumstances involving MARKHAM which is before this Appellate Court is a " text book" factual scenario regarding the legislative intent which brought forth 720 ILCS 570/414, the "Good Samaritan Law". MARKHAM was overdosing from heroin. A 911 call was made on MARKHAM's behalf to seek proper medical attention for the overdose. As a result of the 911 call, law enforcement arrived on the scene and gave MARKHAM CPR which revived him. Thus, as a result of the 911 call seeking medical attention, MARKHAM obtained such medical care which ultimately saved his life.

The trial court in the cause before this appellate court clearly enforced and granted MARKHAM's Motion to Dismiss his charge of Unlawful Possession based upon the Legislature's intent and mandate to help save lives of those experiencing a drug overdose. The PEOPLE's position in its Appellant's brief before this Appellate Court that, " a line clearly needs to be drawn at some point in the emergency personnel's

presence when the medical assistance has ceased and once again can observe illegal activity (See Appellant's brief; Page 10) is against the Legislative Intent of 720 ILCS 570/414 and should be rejected by this Appellate Court.

The Superior Court of the Commonwealth of Pennsylvania on March 2, 2018 rendered an opinion regarding that State's version of Pennsylvania's Drug Overdose Response Immunity statute, 35 P.S. § 780-113.7. That Court in the decision of the ***Commonwealth of Pennsylvania v. Sheila Marie Lewis; 180 A.3d 786*** involved interpretation of Pennsylvania's Drug Overdose Immunity Statute. That case, like the case at bar regarding MARKHAM, involved the issue of medical attention for a drug overdose. The Pennsylvania statute gives immunity to both the reporter and the victim if all conditions are met for the immunity. ***Lewis @ 788*** That statute is similar to Illinois' immunity statute. (720 ILCS 570/414). In ***Commonwealth of Pennsylvania v. Sheila Marie Lewis;*** the trial court denied Defendant's claim for immunity. ***Lewis @ 788.*** The Superior Court of Pennsylvania , (an appeals court) , reversed the trial court's opinion and granted Defendant's request for immunity. ***See Lewis @ 790.*** Amici argue that the appellate decision of ***Commonwealth of Pennsylvania v. Sheila Marie Lewis; 189 A3d 786 (2018)*** was the same interpretation that the trial court of Tazewell County gave to Defendant MARKHAM which lead to the charges against MARKHAM being dismissed. The Pennsylvania appellate Court discussed the definition of medical attention in its opinion. The Pennsylvania Appellate Court ruled a reasonable belief of medical attention was sufficient. There was no discussion or comment when medical attention

would cease. Just a reasonable belief that medical emergency care was required due to a drug overdose. (See ***Commonwealth of Pennsylvania v. Sheila Marie Lewis; 180 A.3d 786, 790 (2018)*** ; attached to and made part of this brief in the APPENDIX)

In Illinois, in construing a statute, the primary objective is to give effect to the legislature's intent, presuming the legislature did not intend to create absurd, inconvenient or unjust results. ***People v. Christopherson, 231 Ill. 2d 449, 454 (2008).*** The most reliable indicator of such intent is the statutory language, which must be given its plain and ordinary meaning. In determining legislative intent, a court may consider the purpose and necessity for the law as well as the consequences that would result from construing the statute one way or the other. ***People v. Garcia, 241 Ill. 2d 416, 421 (2011).***

It is the position of the Amici that the Illinois Good Samaritan Statute, 720 ILCS 570/414 is clear and not ambiguous. The intent of the statute is to save lives. An individual who seeks and obtains medical attention while experiencing a drug overdose shall be entitled to limited immunity from prosecution for illegal possession of a controlled substance, in this instance heroin, meets the statutory requirement. The PEOPLE's argument that " a line needs to be drawn " regarding the definition of medical assistance must be denied by this Court. The Amici in this cause take the position and

opines to this Appellate Court the clear and straight forward intent of the Illinois Legislature when enacting the "Good Samaritan" statute was to save lives. The trial court's decision to rule in favor of the accused, MARKHAM, was a correct interpretation of the statute. That the trial court's ruling must be affirmed by this Appellate Court.

II. The People's attempt to define when medical assistance ceases to allow law enforcement to resume observing illegal drug activity violates the due process and equal constitutional rights of those who have been saved from overdose by a 911 telephone call and subsequently arrested for illegal possession of a controlled substance

A. Due Process

The trial court agreed with Defendant MARKHAM that his arrest and subsequent charge for Unlawful Possession of a Controlled Substance , 720 ILCS 570/402 (c) should have been dismissed pursuant to 720 ILCS 570/414. The Amici opine that the trial court's decision to grant MARKHAM's Motion to Dismiss pursuant to 720 ILCS 570/414 was a proper application of the statute. Furthermore, the Amici take the position that the trial court's action of granting MARKHAM's motion protected MARKHAM's due process rights pursuant to the Constitution of the State of Illinois (Ill. Const. 1970, art. I; § 2) and the United States Constitution (U.S. Constitution., amend IV, V and XIV).

The PEOPLE in its brief does not challenge the constitutionality of 720 ILCS 570/414. However, the PEOPLE's position in its brief, to give law enforcement on site discretion to "draw a line" when medical assistance ceases and police can again observe illegal drug activity is a clear violation of both State of Illinois and United States Due Process provisions. The legislative intent of 720 ILCS 570/414 was to remove fear that either a person making a 911 call or an individual experiencing a drug overdose would be immune from prosecution for possession of an illegal controlled substance. The ultimate statutory goal was to save lives. To grant police on site discretion to determine when medical attention should cease is an abuse of police power and not set forth or implied in 720 ILCS 570/414.

Pursuant to the State's police powers, the legislature has broad discretion to define offenses and prescribe aggravating factors and penalties for offenses. ***People v Coleman, 111 Ill.2d 87, 96 (1986)***. However, legislative discretion is limited by the constitutional guarantee of substantive due process, which provides that a person may not be deprived of liberty without due process of law. ***People v. Madrigal; 241 Ill. 2d 463, 466 (2011)*** In the case at bar, the PEOPLE, in its brief, are asking this appellate court to give police arriving an the scene pursuant to a 911 call; unlimited discretion to determine when medical attention should cease. Such police authority and discretion would end a Defendant's immunity from prosecution at that point of an investigation .

The PEOPLE are requesting this court to make constitutional a warrant less search after the medical treatment, in law enforcement's opinion, has ceased.

Clearly, it was not the intent of the Legislature to grant law enforcement discretion as to when an individual, who received medical attention pursuant to a 911 call, no longer needed such medical attention; thereby ending the immunity Any such ruling by this appellate court to grant police on the scene discretion to conduct a warrant less search because in their opinion medical treatment ceased, is a violation of Defendant MARKHAM's rights of due process . It is the position of the Amici of any such argument by the PEOPLE its it brief must be rejected by this appellate court on constitutional, due process grounds.

B. Equal Protection

The PEOPLE's position in their appellant's brief that law enforcement should have discretion to " draw a line " when on the scene of a drug overdose pursuant to a 911 call as to when medical assistance shall cease clearly violates Defendant MARKHAM's right of equal protection pursuant to the Constitution of the State of Illinois (Ill. Const. 1970, art. I; § 2) and the United States Constitution (U.S. Constitution., amend XIV).

In Illinois, our Supreme Court has ruled that the State must treat "Similarly situated" individuals in a similar manner, rather than laying an unequal hand on those who have committed intrinsically the same quality of offense." ***People v. Reed; 148 Ill.2d 1, 7 (1992)***

In the case at bar, the PEOPLE are not seeking to invalidate 720 ILCS 570/414. However, the PEOPLE are seeking a ruling from this Appellate Court that law enforcement, when arriving on the scene of a drug overdose pursuant to a 911 call, can determine when medical assistance shall cease; thereby placing the overdosed individual subject to a warrant less on the seen search. The PEOPLE's request of this Appellate Court is to place Defendant MARKHAM and all individuals on a case by case basis as to when medical assistance must cease, thereby terminating limited immunity from that point forward. This position by the PEOPLE places individuals on unequal grounds as to potential prosecution when the 911 call is made and law enforcement arrive on the scene. The PEOPLE's analysis of 720 ILCS 570/414 would create different levels of protection for individuals suffering from drug overdose on the sole discretion of law enforcement. The PEOPLE's position as set forth in its brief would violate MARKHAM's rights of equal protection under the State and Federal constitutions. The Amici requests that the appellate court deny the PEOPLE's appeal on equal protection grounds and that the ruling of the trial court to be affirmed.

CONCLUSION

For the foregoing reasons, this Court should deny the PEOPLE's appeal. That the Trial Court's order and ruling which granted Defendant MARKHAM's Motion to Dismiss the charges of Unlawful Possession of a Controlled Substance pursuant to 720 ILCS 570/414 (a) - (e) should be affirmed.

Respectfully submitted,

HEROIN EPIDEMIC RELIEF ORGANIZATION - HERO
AS *AMICI CURIAE* IN SUPPORT OF APPELLEE ROBERT W. MARKHAM

By:_____
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v.	)	**No. 17 CF- 277**
	)	
ROBERT W. MARKHAM	)	**Honorable**
	)	**Stephan Kouri**
Defendant - Appellee	)	**Judge Presiding**

ILLINOIS SUPREME COURT RULE 341 CERTIFICATE OF COMPLIANCE

I certify that this Amicus Brief in Support the Appelle conforms to the requirements of Rules 315 and 341(a) and (b). The length of this brief excluding the Appendix is 15 pages

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3. ***Commonwealth of Pennsylvania v. Sheila Marie Lewis; 180 A3d.786 (2018)***

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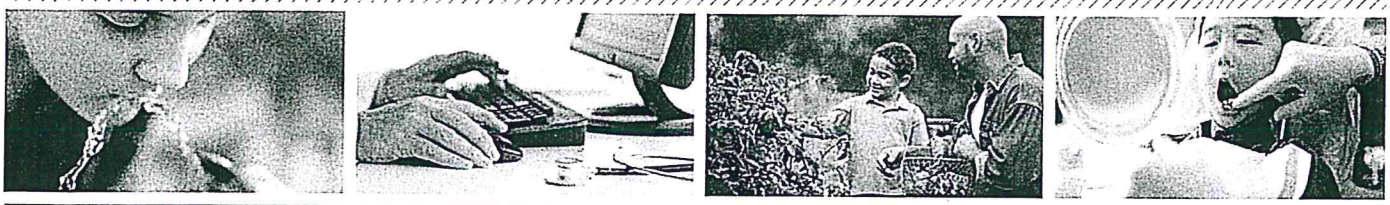
The Network for Public Health Law

Ideas. Experience. Practical answers.



LEGAL INTERVENTIONS TO REDUCE OVERDOSE MORTALITY: NALOXONE ACCESS AND OVERDOSE GOOD SAMARITAN LAWS

Background

Fatal drug overdose has increased more than six-fold in the past three decades, and now claims the lives of over 43,000 Americans every year.[1] Opioids — both prescription painkillers and heroin — are responsible for most of these deaths. The death rate from prescription opioid-caused overdose nearly quadrupled from 1999 to 2013, while deaths from heroin overdose rose an astounding 270 percent between 2010 and 2013.[2] Together, heroin and prescription pain medications take the lives of almost 25,000 Americans per year — nearly 70 people per day. They also cause hundreds of thousands of non-fatal overdoses and an incalculable amount of emotional suffering and preventable health care expenses.

Opioid overdose is typically reversible through the timely administration of the medication naloxone and the provision of other emergency care.[3] However, access to naloxone and other emergency treatment was historically limited by laws and regulations that pre-date the overdose epidemic. In an attempt to reverse the unprecedented increase in preventable overdose deaths, the majority of states have recently amended those laws to increase access to emergency care and treatment for opiate overdose.

Law as both problem and solution

Although naloxone is a prescription drug, it is not a controlled substance and has no abuse potential.[4] It is regularly carried by medical first responders and can be administered by ordinary citizens with little or no formal training.[5] Yet, it is often not available when and where it is needed. Because opioid overdose often occurs when the victim is with friends or family members, those people may be the best situated to act to save his or her life by administering naloxone. Unfortunately, neither the victim nor his or her companions typically carry naloxone. Law is at least partially responsible for this lack of access. State practice laws generally discourage or prohibit the prescription of drugs to a person other than the person to whom they will be administered (a process referred to as third-party prescription) or to a person the physician has not personally examined (a process referred to as prescription via standing order). Additionally, some prescribers are wary of prescribing naloxone because of liability concerns.[6] Likewise, even where naloxone is available, bystanders to a drug overdose may be afraid to administer it because of liability concerns.[7] Finally, overdose bystanders sometimes fail to summon medical assistance for fear of being prosecuted for possession of illegal drugs or similar crimes.[8]

Since most of these barriers are rooted in unintended consequences of laws passed for other purposes, they may be addressed through relatively simple changes to those laws. At the urging of organizations including the U.S. Conference of Mayors, the American Medical Association, the American Public Health Association, and the National Association of Boards of Pharmacy, a number of states have addressed the overdose epidemic by removing some legal barriers to the seeking of emergency medical care and the timely administration of naloxone.[9] These changes come in two general

varieties. The first encourages the wider prescription and use of naloxone by clarifying that prescribers acting in good faith may prescribe the drug to persons who may be able to use it to reverse overdose and by removing the possibility of negative legal action against prescribers and lay administrators.[10] The second encourages bystanders to become "Good Samaritans" by summoning emergency responders without fear of arrest or other negative legal consequences.[11]

Overview of naloxone access and Good Samaritan laws

By September 14, 2015, all but seven states (AZ, IA, KS, MO, MT, SD, WY) had passed legislation designed to improve layperson naloxone access. These states have made it easier for people who might be in a position to assist in an overdose to access the medication, encouraged those individuals to summon emergency responders, or both.[12] In 2001, New Mexico became the first state to amend its laws to make it easier for medical professionals to prescribe and dispense naloxone, and for lay administrators to use it without fear of legal repercussions.[13] As of September 14, 2015, forty other states and the District of Columbia have made similar changes (42 total).[14] Largely because of these legal changes, over 150,000 laypeople had received training and naloxone kits as of 2014, and naloxone program participants reported reversing more than 26,000 overdoses.[15] A recent evaluation of one such program in Massachusetts, which trained over 2,900 potential overdose bystanders, reported that opioid overdose death rates were significantly reduced in communities in which the program was implemented compared to those in which it was not.[16]

In 2007, New Mexico became the first state to amend its laws to encourage Good Samaritans to summon aid in the event of an overdose. As of September 14, 2015, thirty three other states and the District of Columbia have followed suit (35 total).[17] Initial evidence from Washington State, which amended its law in 2010, is positive, with 88 percent of drug users surveyed indicating that they would be more likely to summon emergency personnel during an overdose as a result of the legal change.[18]

The following tables document laws that have been amended or enacted to increase access to naloxone and encourage bystanders to summon medical assistance in the event of overdose. Table 1 shows laws aimed at increasing lay access to naloxone by reducing barriers to prescription and administration. Table 2 contains laws that address criminal concerns for Good Samaritans who summon aid in overdose situations. This document focuses on laws that increase access to naloxone among non-professional responders, and so may not capture states that have expanded access only to professional responders such as police, firefighters, and EMS personnel.

Note that these tables cover only laws that were passed specifically to address drug overdose. That does not necessarily mean the activities covered by the laws in these tables are not permitted in other states, only that they are not explicitly authorized by laws created for that purpose. The categories listed were chosen because of their prevalence in existing laws and may not necessarily reflect best practices.[19]

Conclusion

Opioid overdose kills thousands of Americans every year. Many of those deaths are preventable through the timely provision of a relatively cheap, safe and effective drug and the summoning of emergency responders. As with most public health problems, there is no magic bullet to preventing overdose deaths. A comprehensive solution that includes reductions in inappropriate opioid prescribing, increased access to evidence-based treatment and de-stigmatization of addiction is likely necessary to create large-scale, lasting change. Evaluation is necessary to ensure that legal changes have the intended effect and to suggest additional amendments.[20]

However, it is reasonable to believe that laws that encourage the prescription and use of naloxone and the timely seeking of emergency medical assistance will have the intended effect of reducing opioid overdose deaths. Since such laws have few if any foreseeable negative effects, can be implemented at little or no cost, and will likely save both lives and resources, they may represent some of the lowest-hanging public health fruit available to policymakers today.

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Table 1: Characteristics of state naloxone access laws

As of September 14, 2015

State	Cite	Has law	Eff. Date	Immunity: Prescribers			Immunity: Dispensers			Immunity: Lay administrators		Lay distribution and possession		Prescribing permitted	
				Civil	Criminal	Disciplinary	Civil	Criminal	Disciplinary	Civil	Criminal	Lay distribution	Poss. w/o Rx	3rd Party	Standing order
AL	HB 208 (2015)	Yes	June 12, 2015	Yes	Yes	-	Yes	Yes	-	Yes	Yes	-	-	Yes	Yes
AK	N/A	-	-	-	-	-	-	-	-	-	-	-	-	-	-
AZ	N/A	-	-	-	-	-	-	-	-	-	-	-	-	-	-
AR	Act 1222 (2015)	Yes	July 22, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*	-	Yes	Yes
CA	Cal. Civ. Code § 1714.22 (West 2014); Cal. Bus. & Prof. Code § 4052.01	Yes	Jan. 1, 2014; Jan. 1, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*	Yes	Yes	Yes
CO	CO SB15-053 (2015)	Yes	Apr. 3, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*	Yes*	Yes	Yes
CT	Public Act No. 15-198 (2015)	Yes	June 30, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-	Yes	-
DC	D.C. Code § 7-403 (2013)	Yes	Mar. 19, 2013	-	-	-	-	-	-	Yes	Yes	-	Yes	-	-
DE	Del. Code tit. 16, § 138; Del. Code tit. 16, § 3001G	Yes	June 25, 2014; Aug. 4, 2014	Yes	Yes	Yes	Yes	Yes	Yes	-	-	-	-	-	Yes

A-3

State	Cite	Has law	Eff. Date	Immunity: Prescribers			Immunity: Dispensers			Immunity: Lay administrators		Lay distribution and possession		Prescribing permitted	
				Civil	Criminal	Disciplinary	Civil	Criminal	Disciplinary	Civil	Criminal	Lay distribution	Poss. w/o Rx	3rd Party	Standing order
FL	CB/HB 751 (2015)	Yes	June 10, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-	-	Yes	-
GA	Ga. Code Ann. § 26-4-116.2 (2014)	Yes	Apr. 24, 2014	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*	-	Yes	Yes*
HI	N/A		-	-	-	-	-	-	-	-	-	-	-	-	-
IA	N/A		-	-	-	-	-	-	-	-	-	-	-	-	-
ID	HB 108 (2015)	Yes	July 1, 2015	Yes	Yes	Yes	-	-	-	Yes	Yes	Yes*	Yes	Yes	-
IL	20 Ill. Comp. Stat. Ann. 301/5-23 (2010); Public Act 099-0480 (2015)	Yes	Jan. 1, 2010; Sept. 9, 2015	-	Yes	Yes	-	Yes	Yes	Yes	Yes	-	-	Yes	Yes
IN	SB 406 (2015)	Yes	Apr. 17, 2015	Yes	-	-	Yes	-	-	Yes	-	Yes*	-	Yes	Yes
KS	N/A		-	-	-	-	-	-	-	-	-	-	-	-	-
KY	Ky. Rev. Stat. Ann. § 217.186; 201 Ky. Admin. Regs. 2:360E (2015)	Yes	Mar. 25, 2015	-	-	Yes	-	-	Yes	Yes	Yes	-	-	Yes	Yes
LA	HB 210 (2015)	Yes	Aug. 1, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-	Yes	Yes

A-4

State	Cite	Has law	Eff. Date	Immunity: Prescribers			Immunity: Dispensers			Immunity: Lay administrators		Lay distribution and possession		Prescribing permitted	
				Civil	Criminal	Disciplinary	Civil	Criminal	Disciplinary	Civil	Criminal	Lay distribution	Poss. w/o Rx	3rd Party	Standing order
MA	Mass. Gen. Laws ch. 94c, § 34A (2012); Mass. Gen. Laws ch. 94c, § 19(d) (2012); M.G.L.A. 94C § 19B	Yes	Aug. 2, 2012; July 1, 2014	-	-	-	-	-	-	-	Yes	-	Yes	Yes	-
MD	Md. Code Ann., Health-Gen. §§ 13-3101 to 3111	Yes	Oct. 1, 2015	Yes	-	Yes	Yes	-	Yes	Yes	Yes*	Yes	Yes*	Yes	Yes
ME	Me. Rev. Stat. tit. 22, § 2353 (2014); Ch. 351 (2015)	Yes	Apr. 29, 2014; Oct. 15, 2015	-	-	-	-	-	-	-	-	Yes	-	Yes	Yes
MI	Mich. Comp. Laws § 691.1503; Mich. Comp. Laws § 333.17744b	Yes	Oct. 14, 2014	Yes	-	-	Yes	-	-	Yes	-	Yes	Yes	Yes	-
MN	Minn. Stat. § 604A.04 (2014)	Yes	May 10, 2014	Yes	Yes	-	Yes	Yes	-	Yes	Yes	-	-	-	Yes
MO	N/A		-	-	-	-	-	-	-	-	-	-	-	-	-
MS	HB 692 (2015)	Yes	July 1, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-	Yes	Yes
MT	N/A		-	-	-	-	-	-	-	-	-	-	-	-	-
NC	N.C. Gen. Stat. § 90-106.2 (2013)	Yes	Apr. 9, 2013	Yes	Yes	-	-	-	-	Yes	Yes	-	-	Yes	Yes

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State	Cite	Has law	Eff. Date	Immunity: Prescribers			Immunity: Dispensers			Immunity: Lay administrators		Lay distribution and possession		Prescribing permitted	
				Civil	Criminal	Disciplinary	Civil	Criminal	Disciplinary	Civil	Criminal	Lay distribution	Poss. w/o Rx	3rd Party	Standing order
ND	SB 2104 (2015)	Yes	Aug. 1, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	Yes	Yes	Yes
NE	LB 390 (2015)	Yes	May 27, 2015	-	Yes	Yes	-	Yes	Yes	-	Yes	-	-	Yes	-
NH	HB 271 (2015)	Yes	June 2, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	Yes	Yes
NJ	N.J. Stat. Ann. § 24:6J (2013)	Yes	July 1, 2013	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-	Yes	Yes
NM	NM Stat § 24-23-1 to 2	Yes	Apr. 3, 2001	Yes	Yes	-	Yes	Yes	-	Yes	Yes	-	-	Yes*	-
NV	SB 459	Yes	Oct. 1, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
NY	N.Y. Pub. Health Law § 3309 (2014)	Yes	June 24, 2014	-	-	-	-	-	-	Yes	Yes	Yes	Yes	Yes	Yes
OH	H.B. 170 (2014); H.B. 4 (2015)	Yes	Mar. 11, 2014; July 16, 2015	Yes	Yes	Yes	Yes	Yes	Yes		Yes**	Yes	-	Yes	-
OK	Okla. Stat. Ann. tit. 63, § 1-2506.2; Ok. Stat. Ann. tit. 63 § 2-312.2	Yes	Nov. 1, 2013; Nov. 1, 2014	-	-	-	-	-	-	-	-	-	-	Yes	Yes*
OR	Or. Rev. Stat. § 689.681	Yes	June 6, 2013	-	-	-	-	-	-	Yes	-	Yes	-	Yes	-
PA	Act 139 (2014)	Yes	Nov. 29, 2014	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	Yes	Yes
RI	31-2-9 R.I. Code R. §§ 1.0-5.1	Yes	Oct. 23, 2014	-	-	Yes	-	-	Yes	-	-	Yes*	Yes	Yes	Yes

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State	Cite	Has law	Eff. Date	Immunity: Prescribers			Immunity: Dispensers			Immunity: Lay administrators		Lay distribution and possession		Prescribing permitted	
				Civil	Criminal	Disciplinary	Civil	Criminal	Disciplinary	Civil	Criminal	Lay distribution	Poss. w/o Rx	3rd Party	Standing order
SC	Act No. 54 (2015)	Yes	June 3, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-	Yes	-
SD	N/A		-	-	-	-	-	-	-	-	-	-	-	-	-
TN	Tenn. Code Ann. § 63-1-152 (2014)	Yes	July 1, 2014	Yes	-	Yes	Yes	-	Yes	Yes	-	-	-	Yes	Yes
TX	SB 1462 (2015)	Yes	Sept. 1, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
UT	H.B. 119 (2014)	Yes	May 13, 2014	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-	-	Yes	-
VA	Chapter 725 (2015)	Yes	Apr. 15, 2015	Yes	-	-	Yes	-	-	Yes	Yes*	-	Yes*	-	Yes
VT	VT. STAT. ANN. Tit. 18, § 4240 (2013); 26 V.S.A. § 2080	Yes	July 1, 2013; July 1, 2014	Yes	Yes	-	Yes	Yes	-	Yes	Yes	Yes*	Yes	Yes	Yes
WA	Chapter 205, 2015 Laws	Yes	July 24, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*	Yes	Yes
WI	Act 200 (2014)	Yes	Apr. 8, 2014	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
WV	SB 335 (2015)	Yes	May 27, 2015	Yes	Yes	-	Yes	Yes	-	Yes	Yes	-	Yes	Yes	-
WY	N/A		-	-	-	-	-	-	-	-	-	-	-	-	-
Total		42		32	29	27	30	27	26	36	30, 2*	12, 8*	13, 4*	37, 1*	27, 2*

* = Implied by statutory text
** = Limited to violations of medical practice code

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Table 2: Characteristics of state Good Samaritan laws

As of September 14, 2015

State	Cite	Eff. Date	Has Law	Immunity: Controlled Substance Possession			Immunity: Paraphernalia			Immunity: Other Violations			Other Protections	
				Arrest	Charge	Prosecution	Arrest	Charge	Prosecution	Protective or Restraining Order	Pretrial, Probation, or Parole	Other CS Crimes	Reporting Mitigating Factor	Civil Forfeiture
AL	HB 208 (2015)	June 12, 2015	Yes	-	-	Yes	-	-	Yes	-	-	-	-	-
AK	Alaska Stat. § 12.55.155 (2008); Alaska Stat. § 11.71.311 (2014)	Sept. 8, 2008; Oct. 8, 2014	Yes	-	-	Yes	***	***	***	-	-	-	Yes	-
AZ	-	-	-	-	-	-	-	-	-	-	-	-	-	-
AR	Act 1114 (2015)	July 22, 2015	Yes	Yes	Yes	Yes	-	-	-	Yes	Yes	-	-	-
CA	CA Health & Safety Code 11376.5 (2012)	Jan. 1, 2013	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-	-	-	-
CO	Colo. Rev. Stat. § 18-1-711 (2012)	May 29, 2012	Yes	-	-	Yes	-	-	Yes	-	-	-	-	-
CT	Conn. Gen. Stat. § 21a-267(d) (2011); Conn. Gen. Stat. § 21a-279 (2011)	Oct. 1, 2011	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-	-	-	-

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State	Cite	Eff. Date	Has Law	Immunity: Controlled Substance Possession			Immunity: Paraphernalia			Immunity: Other Violations			Other Protections	
				Arrest	Charge	Prosecution	Arrest	Charge	Prosecution	Protective or Restraining Order	Pretrial, Probation, or Parole	Other CS Crimes	Reporting Mitigating Factor	Civil Forfeiture
D.C.	D.C. Code § 7-403 (2013)	Mar. 19, 2013	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	Yes	-	Yes	-
DE	Del. Code Ann. Tit. 16, § 4769 (2013)	Aug. 31, 2013	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	Yes	Yes	-	-
FL	Fla. Stat. Ann. § 893.21 (2012); Fla. Stat. Ann. § 921.0026(n)	Oct. 1, 2012	Yes	-	Yes	Yes	-	-	-	-	-	-	Yes	-
GA	Ga. Code Ann §§ 3-3-23, 16-13-5 (2014)	Apr. 24, 2014	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-	-
HI	Act 217 (2015)	July 7, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	Yes	Yes
ID	-	-	-	-	-	-	-	-	-	-	-	-	-	-
IL	730 Ill. Comp. Stat. Ann. 5/5-5-3.1 (2012); 720 Ill. Comp. Stat. Ann. 646/115 (West 2012); 720 Ill. Comp. Stat. Ann. 570/414 (West 2012);	June. 1, 2012	Yes	-	Yes	Yes	-	-	-	-	-	-	Yes	-

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State	Cite	Eff. Date	Has Law	Immunity: Controlled Substance Possession			Immunity: Paraphernalia			Immunity: Other Violations			Other Protections	
				Arrest	Charge	Prosecution	Arrest	Charge	Prosecution	Protective or Restraining Order	Pretrial, Probation, or Parole	Other CS Crimes	Reporting Mitigating Factor	Civil Forfeiture
IN	Ind. Code § 35-38-1-7.1(b)(12) (2014)	Mar. 26, 2014	Yes	-	-	-	-	-	-	-	-	-	Yes	-
IA	-	-	-	-	-	-	-	-	-	-	-	-	-	-
KS	-	-	-	-	-	-	-	-	-	-	-	-	-	-
KY	SB 192 (2015)	Mar. 25, 2015	Yes	-	Yes	Yes	-	Yes	Yes	-	-	-	-	-
LA	LSA- R.S. 14:403.10	Aug. 1, 2014	Yes	-	Yes	Yes	-	-	-	-	-	-	-	-
MA	Mass. Gen. Laws ch. 94c, § 34A (2012)	Aug. 2, 2012	Yes	-	Yes	Yes	-	-	-	-	-	-	Yes	-
MD	Md. Code Ann., Crim. Proc. § 1-210 (2015)	Oct. 1, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	Yes	-	Yes	-
ME	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MI	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MN	Minn. Stat. § 604A.05 (2014)	July 1, 2014	Yes	-	Yes	Yes	-	Yes	Yes	-	Yes	Yes	Yes	-
MO	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MS	HB 692 (2015)	July 1, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	-	Yes

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State	Cite	Eff. Date	Has Law	Immunity: Controlled Substance Possession			Immunity: Paraphernalia			Immunity: Other Violations			Other Protections	
				Arrest	Charge	Prosecution	Arrest	Charge	Prosecution	Protective or Restraining Order	Pretrial, Probation, or Parole	Other CS Crimes	Reporting Mitigating Factor	Civil Forfeiture
MT	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NC	SB 154 (2015)	Aug. 1, 2015	Yes	-	-	Yes	-	-	Yes	-	Yes	-	-	-
ND	SB 2070 (2015)	Aug. 1, 2015	-	-	-	Yes	-	-	Yes	-	-	-	-	-
NE	-	-	-	-	-	-	-	-	-	-	-	-	-	-
NH	HB 270 (2015)	Sept. 6, 2015	Yes	Yes	-	Yes	-	-	-	-	-	-	-	-
NJ	N.J. Stat. Ann. § 24:6J (2013)	July 1, 2013	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	Yes	Yes	-	-
NM	N.M. Stat. Ann. § 30-31-27.1 (2007)	June 15, 2007	Yes	-	Yes	Yes	-	-	-	-	-	-	Yes	-
NV	SB 459	Oct. 1, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-	Yes	Yes
NY	N.Y. Penal Law §§ 220.03; 220.78 (Consol. 2011)	Sept. 18, 2011	Yes	Yes	Yes	Yes	-	Yes	Yes	-	-	Yes**	Yes	-
OH	-	-	-	-	-	-	-	-	-	-	-	-	-	-
OK	-	-	-	-	-	-	-	-	-	-	-	-	-	-
OR	SB 839 (2015)	Jan. 1, 2016	Yes	Yes	-	Yes	Yes	-	Yes	-	Yes	-	-	-
PA	Act 139 (2014)	Nov. 29, 2014	Yes	-	Yes	Yes	-	Yes	Yes	-	Yes	Yes	-	-

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State	Cite	Eff. Date	Has Law	Immunity: Controlled Substance Possession			Immunity: Paraphernalia			Immunity: Other Violations			Other Protections	
				Arrest	Charge	Prosecution	Arrest	Charge	Prosecution	Protective or Restraining Order	Pretrial, Probation, or Parole	Other CS Crimes	Reporting Mitigating Factor	Civil Forfeiture
RI	-	-	-	-	-	-	-	-	-	-	-	-	-	-
SC	-	-	-	-	-	-	-	-	-	-	-	-	-	-
SD	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TN	Pub. Ch. 396 (2015)	July 1, 2015	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	-
TX	-	-	-	-	-	-	-	-	-	-	-	-	-	-
UT	Utah Code Ann. §§ 58-37-8(16); 76-3-203.11 (2014)	Mar. 20, 2014	Yes	-	-	Yes**	-	-	Yes**	-	-	-	Yes	-
VA	Va. Code Ann. § 18.2-251.03	July 1, 2015	Yes	-	-	Yes**	-	-	Yes**	-	-	-	-	-
VT	Vt. Stat. Ann. Tit. 18, § 4254 (2013)	June 5, 2013	Yes	Yes	-	Yes	***	***	***	Yes	Yes	Yes	Yes	Yes
WA	Wash. Rev. Code § 69.50.315 (2010); Wash. Rev. Code § 9.94A.535 (2010); Chapter 205, 2015 Laws	June 10, 2010; July 24, 2015	Yes	-	Yes	Yes	-	-	-	-	-	-	Yes	-
WI	Wis. Stat. § 961.443 (2014)	Apr. 9, 2014	Yes	-	-	Yes	-	-	Yes	-	-	-	-	-

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State	Cite	Eff. Date	Has Law	Immunity: Controlled Substance Possession			Immunity: Paraphernalia			Immunity: Other Violations			Other Protections	
				Arrest	Charge	Prosecution	Arrest	Charge	Prosecution	Protective or Restraining Order	Pretrial, Probation, or Parole	Other CS Crimes	Reporting Mitigating Factor	Civil Forfeiture
WV	SB 523 (2015)	June 12, 2015	Yes	-	Yes*	Yes*	-	-	-	-	Yes	-	Yes	-
WY	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total			34	16	22, 1*	31, 1*, 2**	13	15	22, 2**	7	16	6, 1**	17	4

* = Implied by statutory text

** = Affirmative defense only

*** Alaska does not criminalize the possession, sale, or manufacture of drug paraphernalia. Vermont does not criminalize the possession of drug paraphernalia.

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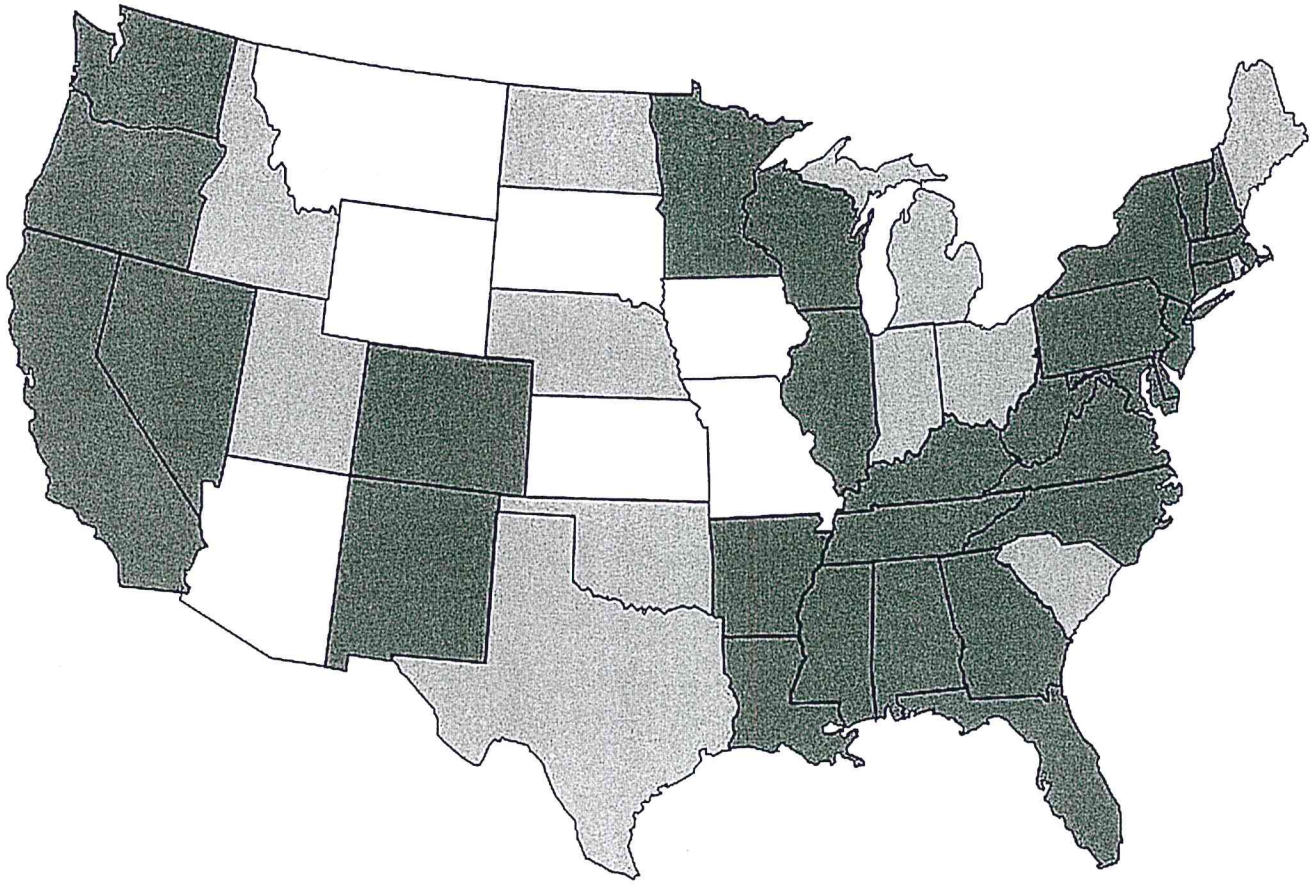

States with naloxone access and drug overdose Good Samaritan laws

States with naloxone access laws only

A-14

The Network for Public Health Law is a national initiative of the Robert Wood Johnson Foundation with direction and technical assistance by the Public Health Law Center at William Mitchell College of Law.

This document was developed by Corey Davis, J.D.., M.S.P.H., Deputy Director at the Network for Public Health Law – Southeastern Region at the National Health Law Program (cdavis@networkforphl.org), with assistance from Sarah Chang, JD, and Derek Carr, JD.
The Network for Public Health Law provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.

Robert Wood Johnson Foundation

References

[1] Margaret Warner, et al., Nat'l Ctr. For Health Statistics, Drug poisoning deaths in the United States, 1980–2008 (2011).

[2] Rudd RA, Paulozzi LJ, Bauer MJ, Burleson RW, Carlson RE, Dao D, et al. *Increases in heroin overdose deaths - 28 States, 2010 to 2012.* MMWR Morb Mortal Wkly Rep 2014;63(39):849-54; Hedegaard H, Chen LH, Warner M. *Drug-poisoning Deaths Involving Heroin: United States, 2000-2013.* NCHS Data Brief 2015(190):1-8.

[3] Opioid overdose is caused by excessive depression of the respiratory and central nervous systems. Naloxone, a κ- and δ, and μ-opioid receptor competitive antagonist, works by displacing opioids from these receptors, thereby reversing their depressant effect.

[4] *See* 21 U.S.C. § 801, 21 CFR § 1308.

[5] C. Baca, et al., *Take-home Naloxone to Reduce Heroin Death*, 100 Addiction 1823; Centers for Disease Control and Prevention, *Community-Based Opioid Overdose Prevention Programs Providing Naloxone – United States,* 2010, 61 Morbidity and Mortality Weekly Report 61, 101 (2012); M. Doe-Simkins, et al., *Overdose rescues by trained and untrained participants an change in opioid use among substance-using participants in overdose education and naloxone distribution programs: a retrospective cohort study,* 14 BMC Public Health 297 (2014).

[6] *See* Leo Beletsky, et al., *Physicians' knowledge of and willingness to prescribe naloxone to reverse accidental opiate overdose: challenges and opportunities,* 84 Journal of Urban Health 126 (2007).

[7] For an excellent review of the ways in which law and law enforcement hinder access to naloxone, *see* Scott Burris, et al, *Stopping An Invisible Epidemic: Legal Issues In The Provision Of Naloxone To Prevent Opioid Overdose*, 1 Drexel Law Review 273 (2009).

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[8] 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). They may, of course, fear arrest for other reasons (such as existing warrants or non-drug crimes) as well, but the immunity in most current laws is limited to drug (and in some cases, alcohol) crimes.

9 See U.S. Conference of Mayors, 2008 Adopted Resolutions – Saving Lives, Saving Money: City-Coordinated Drug Overdose Prevention, available at http://www.usmayors.org/resolutions/76th_conference/chhs_16.asp; American Medical Association, AMA Adopts New Policies at Annual Meeting, available at http://www.ama-assn.org/ama/pub/news/news/2012-06-19-ama-adopts-new-policies.page; American Public Health Association, Prevention Overdose Through Education and Naloxone Distribution, available at http://www.apha.org/NR/rdonlyres/D13CCF7A-1E17-4954-BB28-EAEB7D6E261E/0/LB2Naloxone.pdf. A number of other organizations, including the National Association of Drug Diversion Investigators and the Office of National Drug Control Policy also support policy changes to increase access to naloxone. See National Association of Drug Diversion Investigators, NADDI Supports Nasal Naloxone, available at http://naddi.org/aws/NADDI/pt/sd/news_article/62028/_PARENT/layout_details/false

[10] Some states are also moving to expand naloxone administration authority to first responders including EMRs, EMTs, firefighters, and law enforcement officers. Those expansions are generally not captured in this document, which is focused on increased access among laypersons. For a list of states that permit EMTs to administer naloxone, *see* Network for Public Health Law, Legal Intervention to Reduce Overdose Mortality: Emergency Medical Services Naloxone Access, *available at* https://www.networkforphl.org/_asset/8b7kmi/EMS-naloxone-overview.pdf.

[11] Note that there is no legal reason that changes of both types cannot be made in the same piece of legislation, and indeed the trend appears to be in that direction.

[12] For further background on these laws, please see Davis C and Carr D, Legal changes to increase access to naloxone for opioid overdose reversal in the United States, Drug and Alcohol Dependence (2015).

[13] The provision of "take home" naloxone to reduce overdose risk was suggested as early as the mid-1990s. *See* John Strang et al.,*Heroin Overdose: The Case for Take-Home Naloxone*, 312 BRIT. MED. J. 1435 (1996).

[14] For a graphical representation of these laws, please see the relevant LawAtlas map at http://www.lawatlas.org/preview?dataset=laws-regulating-administration-of-naloxone. This number includes all states that have passed relevant laws, even if they have a later effective date. Effective dates are listed in the tables.

[15] Wheeler E, Jones ST, Gilbert MK, Davidson PJ. Opioid overdose prevention programs providing naloxone to laypersons – United States, 2014. MMWR Morb Mortal Wkly Rep 2015;64(23):631-5.

[16] Alex Walley, et al., *Opioid overdose rates and implementation of overdose education and nasal naloxone distribution in Massachusetts: interrupted time series analysis*, 346 BMJ f174 (2013).

[17] For a graphical representation of these laws, please see the relevant LawAtlas map at http://www.lawatlas.org/preview?dataset=good-samaritan-overdose-laws.

[18] Banta-Green, C. Washington's 911 Good Samaritan Overdose Law: Initial Evaluation Results (Nov. 2011), *available at* http://adai.uw.edu/pubs/infobriefs/ADAI-IB-2011-05.pdf

[19] For additional thoughts on legal approaches to reducing opioid overdose deaths, *see* Davis CS, Webb D, Burris S. *Changing Law from Barrier to Facilitator of Opioid Overdose Prevention*, 41 J. of Law, Med. & Ethics 33-36 (2013).

[20] For example, existing laws typically do not include funding for education on the use and provision of naloxone. They also tend to limit criminal immunity to drug-related crimes, which may limit their effect.

HEALTH

Opioids now kill more people than breast cancer

Overdoses from opioids up 88% each year since 2013

By:
NADIA KOUNANG
CNN
Posted: Dec 21, 2017 02:01 AM EST
Updated: Dec 21, 2017 02:01 AM EST

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(CNN) - More than 63,600 lives were lost to drug overdose in 2016, the most lethal year yet of the drug overdose epidemic, according to a new report from the National Center for Health Statistics, part of the US Centers for Disease Control and Prevention.

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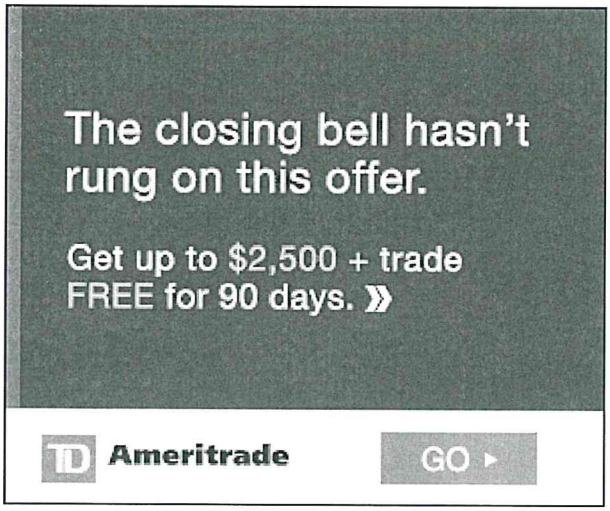
Most of those deaths involved opioids, a family of painkillers including illicit heroin and fentanyl as well as legally prescribed medications such as oxycodone and hydrocodone. In 2016 alone, 42,249 US drug fatalities -- 66% of the total -- involved opioids, the report says. That's over a thousand more than the 41,070 Americans who die from breast cancer every year.

Much of the increase was driven by the rise in illicit synthetic opioids like fentanyl and tramadol. The rate of deadly overdoses from synthetic opioids other than methadone has skyrocketed an average of 88% each year since 2013; it more than doubled in 2016 to 19,413, from 9,580 in 2015.

Heroin also continues to be a problem, the report says. Since 2014, the rate of heroin overdose deaths has jumped an average of 19% each year.

The opioid crisis has raised significant awareness of prescription painkillers. Between 1999 and 2009, the rate of overdoses from such drugs rose 13% annually, but the increase has since slowed to 3% per year.

In 2009, prescription narcotics were involved in 26% of all fatal drug overdoses, while heroin was involved in 9% and synthetics were involved in just 8%. By comparison, in 2016, prescription drugs were involved in 23% of all deadly overdoses. But heroin is now implicated in about a quarter of all drug fatalities, and synthetic opioids play a role in nearly a third.



These increases have contributed to a shortening of the US life expectancy for a second year in a row.

A state-by-state look

The states with the highest rates of overdose in 2016 were West Virginia, Ohio and New Hampshire, the report said. The rate of overdose in West Virginia was over 2.5 times the national average of 19.8 overdose deaths for every 100,000 people.

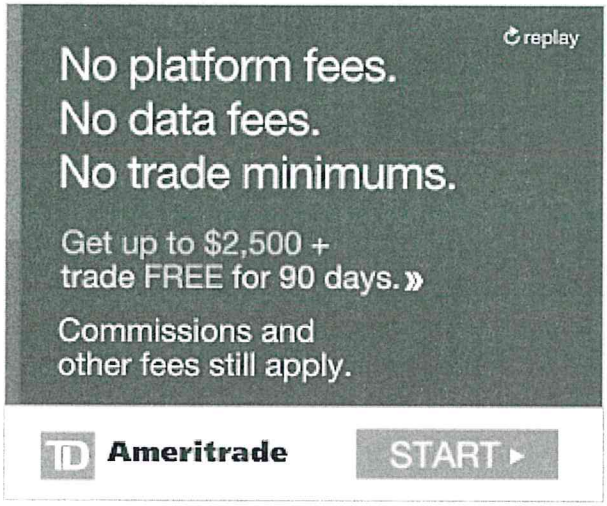
A-18

While the outlook nationwide is fairly bleak, it's particularly bad in some states. Twenty-two states and the District of Columbia had overdose rates significantly higher than the national average.

While overdose rates increased in all age groups, rises were most significant in those between the ages of 25 and 54.

Provisional data for 2017 from the CDC show no signs of the epidemic abating, with an estimate of more than 66,000 overdose deaths for the year. "Based on what we're seeing, it doesn't look like it's getting any better," said Bob Anderson, chief of the mortality statistics branch at the National Center for Health Statistics.

He said the data for this year were still incomplete because of the time it takes to conduct death and toxicology investigations. However, Anderson says, the 2017 estimates are alarming. "The fact that the data is incomplete and they represent an increase is concerning," he said.



But addiction specialist Dr. Andrew Kolodny said that despite the devastating overdose numbers, there appeared to be some indicators of good news.

"Even though deaths are going up among people who are addicted heroin users, who use black-market opioids ... it's possible that we are preventing less people from becoming addicted through better prescribing," said Kolodny, executive director of Physicians for Responsible Opioid Prescribing.

Studies have shown that while rates of opioid prescribing remain high in the US, they have decreased from a peak of 81 prescriptions for every 100 people in 2010 to about 70 per 100. Kolodny also pointed to recent surveys indicating that opioids were being less-frequently abused by teens.

A public health emergency

A-19

In October, President Trump declared the opioid crisis a public health emergency. "As Americans, we cannot allow this to continue. It is time to liberate our communities from this scourge of drug addiction," he said. "We can be the generation that ends the opioid epidemic."

The week following, the President's Commission on Combating Drug Addiction issued its final report with more than 50 recommendations to help solve the opioid crisis, including expanding medicated assisted treatment, increasing the number of drug courts, coordinating electronic health records and increasing prescriber education.

However, Kolodny and other public health experts were disappointed that the actions by the president and the commission were not accompanied by funds.

"You don't call it an emergency and sit around do nothing about it -- and that's where we are," Kolodny said. "The doing something should be a plan from the agencies ... and it should be seeking money from Congress."

Commission member and former Rep. Patrick Kennedy agreed. "It means nothing if it has no funding to push it forward. You can't just have a speech like the President gave."

But fellow commission member Bertha Madras said that funding requests can't be immediately answered and pointed out that the White House is working with agencies now to determine costs and processes to implement the group's recommendations. "The commitment has to be accompanied by wise decisions and wise planning and a very judicious use of funding," she said.

The White House's Council of Economic Advisers recently estimated that the cost of the opioid crisis in 2015 alone was $504 billion, nearly 3% of gross domestic product.

Kennedy worries that the tax bill passed this week will only worsen the crisis. "It's going to be the vote that sets this country back further than anything else in our ability to tackle this crisis. Period. There's going to be no more significant vote on opioids."

A-20

The bill, which is now headed to the President's desk to be signed into law, eliminates provisions of the individual mandate or penalties for being uninsured that were required under Obamacare. Once it is enacted, the nonpartisan Congressional Budge Office estimates, 13 million individuals will be uninsured by 2027, and health insurance premiums will go up. According to the 2016 Surgeon General's Report on Alcohol, Drugs, and Health, 30% of Americans do not seek any sort of addiction treatment because they do not have insurance and cannot afford treatment.

"We've got a human addiction tsunami. We need all hands on deck," Kennedy said.

A-21

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Commonwealth v. Lewis

Superior Court of Pennsylvania

August 16, 2017, Submitted; March 2, 2018, Decided; March 2, 2018, Filed

No. 257 MDA 2017

Reporter
180 A.3d 786 *; 2018 Pa. Super. LEXIS 177 **; 2018 PA Super 46

COMMONWEALTH OF PENNSYLVANIA v. SHEILA MARIE LEWIS, Appellant

Prior History: [**1] Appeal from the Judgment of Sentence January 27, 2017. In the Court of Common Pleas of Dauphin County. Criminal Division at No(s): CP-22-CR-0005227-2016. Before RICHARD A. LEWIS, J.

Core Terms

immunity, drug overdose, overdose, medical attention, self-reporters, paraphernalia, authorities, reasonable belief, grant immunity, suspected, lives, save

Case Summary

Overview

HOLDINGS: [1]-A finding that appellant was not entitled to immunity under the Drug Overdose Response Immunity statute (Act), *35 Pa. Stat. Ann. § 780-113.7*, was improper because, while the statute did not provide immunity when a person who reasonably believed she herself had overdosed and contacted authorities pursuant to that belief, denying appellant immunity would frustrate the Legislature's intent in passing the Act. Thus, the trial court erred in denying her motion to dismiss the charge of possession of drug paraphernalia; [2]-What the Act required was that the reporter have a reasonable belief emergency medical care was required due to a drug overdose and there was no evidence that appellant had a motive to call 911 outside of a desire to seek immediate medical attention.

Outcome
Judgment of sentenced reversed; appellant discharged.

LexisNexis® Headnotes

Criminal Law & Procedure > Defenses

HN1[] **Criminal Law & Procedure, Defenses**

In an effort to prevent overdose deaths, the Legislature provided for immunity from prosecution for certain crimes when a person has a reasonable belief someone is suffering from an overdose and contacts local authorities. The Drug Overdose Response Immunity statute, *35 Pa. Stat. Ann. § 780-113.7*, provides this immunity to both the reporter and the victim, as long as several conditions are met.

Criminal Law & Procedure > ... > Standards of Review > De Novo Review > Conclusions of Law

Governments > Legislation > Interpretation

HN2[] **De Novo Review, Conclusions of Law**

A trial court's application of a statute is a question of law, and the standard of review is plenary. Moreover, review is limited to determining whether the trial court committed an error of law.

Governments > Legislation > Interpretation

HN3[] **Legislation, Interpretation**

In interpreting any statute, appellate courts must take note of the principles of statutory interpretation and construction. The principal objective of interpreting a statute is to effectuate the intention of the legislature and give effect to all of the provisions of the statute. In construing a statute to determine its meaning, courts must first determine whether the issue may be resolved by reference to the express language of the statute, which is to be read according to the plain meaning of the words. When analyzing particular words or phrases, we

must construe them according to rules of grammar and according to their common and approved usage. Words of a statute are to be considered in their grammatical context. Furthermore, we may not add provisions that the General Assembly has omitted unless the phrase is necessary to the construction of the statute. A presumption also exists that the legislature placed every word, sentence and provision in the statute for some purpose and therefore courts must give effect to every word.

Criminal Law & Procedure > Defenses

HN4[] **Criminal Law & Procedure, Defenses**

Under the appropriate circumstances, the reporter is rendered immune from prosecution for minor drug offenses enumerated in the Drug Overdose Response Immunity statute (Act), *35 Pa. Stat. Ann. § 780-113.7*, including possession of drug paraphernalia. Additionally, the suspected overdose victim is granted immunity so long as the reporter has met all the conditions necessary for immunity. The suspected victim is granted immunity even if authorities have no reason to believe the reporter committed any crime. Thus, the Act is designed to save lives by sacrificing the enforcement of minor narcotics criminal penalties. However, it does not frustrate larger law enforcement goals.

Criminal Law & Procedure > Defenses

HN5[] **Criminal Law & Procedure, Defenses**

The Drug Overdose Response Immunity statute (Act), *35 Pa. Stat. Ann. § 780-113.7*, repeatedly refers to the presence of a third party, the reporter, in setting forth the conditions for immunity. The Act states the reporter must be acting under a reasonable belief that "another person" is in need of immediate medical assistance. *§ 780-113.7(a)(2)(i)*. Thus, the Act appears to implicitly condition the grant of immunity on the presence of two parties: a reporter and a victim. However, it is unclear this implicit requirement was intended. The Act does not explicitly exclude immunity for self-reporters. Furthermore, excluding self-reporters from the immunity granted by the Act would lead to absurd results.

Criminal Law & Procedure > Defenses

Governments > Legislation > Interpretation

HN6[] **Criminal Law & Procedure, Defenses**

The legislature does not intend a result that is absurd and unreasonable. *1 Pa.C.S. § 1922(1)*. It cannot be believed that the Legislature intended to weigh the life of a self-reporter below the life of a drug overdose victim who has a conscientious associate. Whether a life is worth saving should not depend on the presence of a third party. Therefore, the immunities granted under the Drug Overdose Response Immunity statute, *35 Pa. Stat. Ann. § 780-113.7*, are available to self-reporters, so long as they meet all other requirements.

Criminal Law & Procedure > Defenses

HN7[] **Criminal Law & Procedure, Defenses**

The Drug Overdose Response Immunity statute (Act), *35 Pa. Stat. Ann. § 780-113.7*, requires the reporter to have a reasonable belief that another person was in need of immediate medical attention and was necessary to prevent death or serious bodily injury due to a drug overdose. *§ 780-113.7(a)(2)(i)*. Thus, the subject of the report need not necessarily require immediate medical attention, or even be suffering from a drug overdose. What the Act requires is that the reporter have a reasonable belief emergency medical care is required due to a drug overdose.

Counsel: Jonathan R. White, Camp Hill, for Appellant.

Ryan H. Lysaght, Assistant District Attorney, Harrisburg, for Commonwealth, Appellee.

Judges: BEFORE: GANTMAN, P.J., PANELLA, J., and FORD ELLIOTT, P.J.E. OPINION BY PANELLA, J. President Judge Emeritus Ford Elliott joins the opinion. President Judge Gantman concurs in the result.

Opinion by: PANELLA

Opinion

[*787] OPINION BY PANELLA, J.

In this appeal, we interpret and apply the Drug Overdose Response Immunity statute, *35 P.S. § 780-113.7* (the "Act"). *HN1*[] In an effort to prevent overdose deaths, the Legislature provided for immunity from prosecution for certain crimes when a person has a reasonable belief someone is suffering from an overdose and contacts **[*788]** local authorities. The Act provides this immunity to both the reporter and the victim, so long as several conditions are met.

At issue here is whether the statute applies to a person who

reasonably believed she herself had overdosed and contacted authorities pursuant to this belief. We conclude that while the language of the statute does not explicitly provide for immunity under these circumstances, denying Lewis immunity in this case would frustrate the Legislature's intent in passing the Act. We therefore reverse the trial **[**2]** court's order finding that Appellant, Sheila Marie Lewis, is not entitled to immunity.

For purposes of this appeal, the facts of the case are undisputed. Lewis called 911 from her hotel room reporting she had overdosed on prescription pills. A police officer responded to the scene to assist Lewis until an ambulance could arrive. While he was assisting Lewis in gathering the prescription pills, he observed paraphernalia often utilized to smoke marijuana. When questioned about the paraphernalia, Lewis admitted she had used the items to smoke marijuana.

The ambulance took Lewis to a local hospital. The Commonwealth subsequently charged her with possession of drug paraphernalia. Prior to her bench trial, Lewis moved to have the charge dismissed, claiming immunity to prosecution under the Act. The trial court denied her motion on two grounds.

The court concluded self-reported overdose victims are not entitled to immunity under the law. In addition, the court held Lewis did not need immediate medical attention and therefore was not entitled to immunity under the law. After hearing testimony, the court found Lewis guilty of possession of drug paraphernalia and sentenced her to three months' **[**3]** probation. Lewis filed this timely appeal.

Lewis argues the trial court erred in concluding she is not statutorily immune from prosecution under the Act. As she concedes in her brief, this issue raises a question of statutory interpretation. *HN2*[↑] "A trial court's application of a statute is a question of law, and our standard of review is plenary. Moreover, our review is limited to determining whether the trial court committed an error of law." *Commonwealth v. Wall, 2005 PA Super 24, 867 A.2d 578, 580 (Pa. Super. 2005)* (citations and internal quotation marks omitted).

> *HN3*[↑] In interpreting any statute, appellate courts must take note of the principles of statutory interpretation and construction. The principal objective of interpreting a statute is to effectuate the intention of the legislature and give effect to all of the provisions of the statute. In construing a statute to determine its meaning, courts must first determine whether the issue may be resolved by reference to the express language of the statute, which is to be read according to the plain meaning of the words. When analyzing particular words or phrases, we must construe them according to rules of grammar and according to their common and approved usage. Words of a statute are to be considered in their **[**4]** grammatical context. Furthermore, we may not add provisions that the General Assembly has omitted unless the phrase is necessary to the construction of the statute. A presumption also exists that the legislature placed every word, sentence and provision in the statute for some purpose and therefore courts must give effect to every word.

Commonwealth v. Morris, 2008 PA Super 235, 958 A.2d 569, 578-579 (Pa. Super. 2008) (internal citations and quotation marks omitted).

[*789] Lewis's claim relies solely on the Act.[1] The

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[1] The relevant language of the Act:

> (a) A person may not be charged and shall be immune from prosecution for any offense listed in *subsection (b)* and for a violation of probation or parole if the person can establish the following:
>
> ...
>
> (1) all of the following apply:
>
> (i) the person reported, in good faith, a drug overdose event to a law enforcement officer, the 911 system, a campus security officer or emergency services personnel and the report was made on the reasonable belief that another person was in need of immediate medical attention and was necessary to prevent death or serious bodily injury due to a drug overdose;
>
> (ii) the person provided his own name and location and cooperated with the law enforcement officer, 911 system, campus security officer or emergency services personnel; and
>
> (iii) **[**6]** the person remained with the person needing immediate medical attention until a law enforcement officer, a campus security officer or emergency services personnel arrived.
>
> (b) The prohibition on charging or prosecuting a person as described in *subsection (a)* bars charging or prosecuting a person for [a list of crimes including possession of drug paraphernalia.]
>
> (c) Persons experiencing drug overdose events may not be charged and shall be immune from prosecution as provided in *subsection (b)* if a person who transported or reported and remained with them may not be charged and is entitled to immunity under this section.

Legislature amended the Controlled Substance, Drug, Device and Cosmetic Act by enacting the Drug Overdose Response Immunity statute. The amendment passed in the face of a burgeoning humanitarian crisis across the United States in general and Pennsylvania in particular. In the United States as a whole, drug overdose deaths "nearly tripled during 1999-2014." Rudd RA, Seth P, David F, Scholl L., *Increases in Drug and Opioid-Involved Overdose Deaths — United States, 2010-2015*. MMWR Morb Mortal Wkly Rep 2016; 65:1445-1452, available at https://www.cdc.gov/mmwr/volumes/65/wr/mm655051e1.htm?s_cid=mm655051e1_w , retrieved 1/23/18. From 1999 to 2010, Pennsylvania's rate nearly doubled. ***See*** *Prescription Drug Abuse: Strategies to Stop the Epidemic*, available at http://healthyamericans.org/reports/drugabuse2013/ , retrieved 1/23/18. As of 2010, Pennsylvania's **[**5]** drug overdose mortality rate was 14th highest in the country. ***See id.*** After signing the Act into law, then-Governor Tom Corbett observed, "[t]he bill I am signing today will save lives and ensure those who help someone in need aren't punished for doing so." Pa. Painkiller-Heroin Crisis: Corbett Signs Bill Intended to Save Lives, available at http://www.pennlive.com/midstate/index.ssf/2014/09/corbett_heroin_good_samaritan.html , retrieved 1/23/18.

This public health crisis continues unabated. In fact, "[m]ore than 63,600 lives were lost to drug overdose in 2016, the most lethal year yet of the drug overdose epidemic, according to ... the US Centers for Disease Control and Prevention." Opioids Now Kill More People Than Breast Cancer, available at http://www.wfmz.com/health/opioids-now-kill-more-people-than-breast-cancer/675807470 , retrieved 2/21/18.

To achieve its intent of saving lives, the Act provides immunity from prosecution for persons who call authorities to seek medical care for a suspected overdose victim. Specifically, the Commonwealth **[**7]** may not prosecute either the caller or the victim for minor narcotics infractions. This immunity cannot be used to defeat prosecutions for ongoing investigations. For instance, a person cannot gain immunity by calling 911 and reporting a suspected overdose while police are knocking on the door to serve a search warrant.

[*790] Furthermore, immunity is only granted when the reporter *reasonably* believes medical attention is necessary. This requirement would further restrict the ability of a defendant to utilize a timely 911 call to frustrate an ongoing investigation. Other conditions on the grant of immunity include a requirement that the reporter provide authorities with her real name, that she stay with the subject of her report, and she cooperate fully with authorities.

HN4[↑] Under the appropriate circumstances, the reporter is rendered immune from prosecution for minor drug offenses enumerated in the Act, including possession of drug paraphernalia. Additionally, the suspected overdose victim is granted immunity so long as the reporter has met all the conditions necessary for immunity. ***See Commonwealth v. Carontenuto****, 2016 PA Super 197, 148 A.3d 448, 452 (Pa. Super. 2016)*. The suspected victim is granted immunity even if authorities have no reason to believe the reporter committed **[**8]** any crime. ***See id.****, at 452-453.*

Thus, the Act is designed to save lives by sacrificing the enforcement of minor narcotics criminal penalties. However, as noted, it does not frustrate larger law enforcement goals. For example, if a narcotics distribution operation were the subject of an extended investigation, the suspects would not receive immunity if they called 911 while police were in the process of entering the building. ***See*** *35 P.S. § 780-113.7(d)(1)*. Furthermore, even if police were completely unaware of the narcotics distribution operation, and were summoned to treat an overdose, there would be no immunity granted for distribution charges, firearms charges, or any other serious crime not explicitly listed in the Act. ***See*** *35 P.S. § 780-113.7(d)(2)*. Thus, the Act in no way constitutes an impediment to the prosecution of organized criminal behavior.

As the learned trial judge noted in announcing his verdict, application of the Act to this fact pattern is not straightforward. The esteemed trial judge chose a strict construction in interpreting the statute. In light of our standard of review, we believe our broader interpretation is in line with the Legislature's clear intent in enacting this statute.

As referenced above, *HN5*[↑] the Act repeatedly refers **[**9]** to the presence of a third party, the reporter, in setting forth the conditions for immunity. For example, the Act states the reporter must be acting under a reasonable belief that "another person" is in need of immediate medical assistance. ***See*** *35 P.S. § 780-113.7(a)(2)(i)*. Thus, the Act appears to implicitly condition the grant of immunity on the presence of two parties: a reporter and a victim.

However, it is unclear this implicit requirement was intended. The Act does not explicitly exclude immunity for self-reporters. Furthermore, excluding self-reporters from the immunity granted by the Act would lead to absurd results. Using the facts of this case as an example, we could hold that Lewis was not immune because she self-reported and affirm her conviction. However, if she had summoned anyone else—

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35 P.S. § 780-113.7.

a neighbor, or passerby, for instance—to phone the police for her, it is clear she would qualify for immunity under the Act.

We do not believe the Legislature intended this absurd dichotomy in results. *HN6*[] "The legislature does not intend a result that is absurd and unreasonable." ***Bankers Trust Co. v. Foust***, *424 Pa. Super. 89, 621 A.2d 1054, 1058 (Pa. Super. 1993)* (citation omitted). ***See also Koken v. Reliance Ins. Co.***, *586 Pa. 269, 893 A.2d 70, 81 (Pa. 2006)*; *1 Pa.C.S.A. § 1922(1)*. We cannot believe the Legislature intended to weigh the life of a **[*791]** self-reporter below the life of a drug overdose **[**10]** victim who has a conscientious associate. Whether a life is worth saving should not depend on the presence of a third party. We therefore conclude the immunities granted under the Act are available to self-reporters, so long as they meet all other requirements.

Which leads to the second basis for the trial court's refusal to grant Lewis immunity under the facts of this case. The court found Lewis was not "in need of immediate medical attention ... necessary to prevent death or serious bodily injury due to a drug overdose event." Trial Court Opinion, filed 2/28/17, at 4 (emphasis and footnote omitted).

However, this standard is not the standard set forth in the Act. *HN7*[] The Act requires the reporter to have "a *reasonable belief* that another person was in need of immediate medical attention and was necessary to prevent death or serious bodily injury due to a drug overdose[.]" *35 P.S. § 780-113.7(a)(2)(i)* (emphasis supplied). Thus, the subject of the report need not necessarily require immediate medical attention, or even be suffering from a drug overdose. What the Act requires is that the reporter have a reasonable belief emergency medical care is required due to a drug overdose.

Initially, the reasonableness of Lewis's **[**11]** belief is bolstered by the fact she called 911 to request aid. There is no evidence Lewis had a motive to call 911 outside of a desire to seek immediate medical attention. Furthermore, the only testimony at trial came from the officer who responded to Lewis's 911 call. He testified the responding ambulance crew took Lewis to the hospital, over her protests. ***See*** N.T., Bench Trial, 1/27/17, at 16-17. He agreed this was done "because they wanted to make sure that whatever she ingested didn't eventually kill her or harm her[.]" ***Id.***, at 17. Thus, the Commonwealth presented evidence that the responding ambulance crew believed Lewis was in need of immediate medical care to prevent death or serious harm. On this record, we cannot conclude Lewis's belief was unreasonable.

We therefore reverse the judgment of sentence.

Judgment of sentence reversed. Appellant discharged.

President Judge Emeritus Ford Elliott joins the opinion.

President Judge Gantman concurs in the result.

Judgment Entered.

Date: 3/2/18

End of Document

NO. 3-18-0071

IN THE
APPELLATE COURT OF THE STATE OF ILLINOIS
THIRD JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS	)	**Appeal from the Circuit Court**
	)	**Of the 10th judicial circuit**
Plaintiff - Appellant	)	**Tazewell County, Illinois**
	)	
v.	)	**No. 17 CF- 277**
	)	
ROBERT W. MARKHAM	)	**Honorable**
	)	**Stephan Kouri**
Defendant - Appellee	)	**Judge Presiding**

NOTICE OF FILING

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Please take notice that on **July 11, 2018**, Heroin Epidemic Relief Organization - Hero, Amici Curiae in the above entitled matter, by and through its attorneys, ALAN H. SHIFRIN & ASSOCIATES, LLC, caused to be filed with the Clerk of the Appellate Court of the State of Illinois, Third District, An Amici Curiae Brief in Support of Robert W. Markham; Defendant-Appellee

ALAN H. SHIFRIN & ASSOCIATES, LLC

By:_____

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure the undersigned certifies that a copy of this Notice of Filing and Amici Curiae brief was served upon each person to whom it is addressed by mailing a copy thereof to each person to whom it is directed at the above electronic mail addresses on July 11, 2018 at 4:00pm

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