

HB4479



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4479

Introduced 1/17/2024, by Rep. Dan Caulkins

SYNOPSIS AS INTRODUCED:

720 ILCS 570/414

Amends the Illinois Controlled Substances Act. Provides that a person who reasonably believes that another person is experiencing an overdose and knowingly fails to seek emergency medical assistance for that person is guilty of a Class 4 felony unless the person experiencing the overdose dies as a result of failing to obtain the emergency medical assistance, in which case the penalty for violating this provision is a Class 1 felony.

LRB103 32977 RLC 62784 b

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Illinois Controlled Substances Act is
5 amended by changing Section 414 as follows:

6 (720 ILCS 570/414)

7 Sec. 414. Overdose; limited immunity.

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

14 (b) A person who, in good faith, seeks or obtains
15 emergency medical assistance for someone experiencing an
16 overdose shall not be arrested, charged, or prosecuted for a
17 violation of Section 401 or 402 of the Illinois Controlled
18 Substances Act, Section 3.5 of the Drug Paraphernalia Control
19 Act, Section 55 or 60 of the Methamphetamine Control and
20 Community Protection Act, Section 9-3.3 of the Criminal Code
21 of 2012, or paragraph (1) of subsection (g) of Section 12-3.05
22 of the Criminal Code of 2012 if evidence for the violation was
23 acquired as a result of the person seeking or obtaining

1 emergency medical assistance and providing the amount of
2 substance recovered is within the amount identified in
3 subsection (d) of this Section. The violations listed in this
4 subsection (b) must not serve as the sole basis of a violation
5 of parole, mandatory supervised release, probation, or
6 conditional discharge, a person's pretrial release, or
7 furlough, or any seizure of property under any State law
8 authorizing civil forfeiture so long as the evidence for the
9 violation was acquired as a result of the person seeking or
10 obtaining emergency medical assistance in the event of an
11 overdose.

12 (c) A person who is experiencing an overdose shall not be
13 arrested, charged, or prosecuted for a violation of Section
14 401 or 402 of the Illinois Controlled Substances Act, Section
15 3.5 of the Drug Paraphernalia Control Act, Section 9-3.3 of
16 the Criminal Code of 2012, or paragraph (1) of subsection (g)
17 of Section 12-3.05 of the Criminal Code of 2012 if evidence for
18 the violation was acquired as a result of the person seeking or
19 obtaining emergency medical assistance and providing the
20 amount of substance recovered is within the amount identified
21 in subsection (d) of this Section. The violations listed in
22 this subsection (c) must not serve as the sole basis of a
23 violation of parole, mandatory supervised release, probation,
24 or conditional discharge, or any seizure of property under any
25 State law authorizing civil forfeiture so long as the evidence
26 for the violation was acquired as a result of the person

1 seeking or obtaining emergency medical assistance in the event
2 of an overdose.

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

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

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

10 (3) less than 3 grams of a substance containing
11 morphine;

12 (4) less than 40 grams of a substance containing
13 peyote;

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

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

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

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

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

1 isomers of methaqualone;

2 (10) less than 6 grams of a substance containing
3 phencyclidine or any of the salts, isomers and salts of
4 isomers of phencyclidine (PCP);

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

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

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

1 result of the person seeking or obtaining emergency medical
2 assistance in the event of an overdose.

3 (f) A person who reasonably believes that another person
4 is experiencing an overdose and knowingly fails to seek
5 emergency medical assistance for that person is guilty of a
6 Class 4 felony unless the person experiencing the overdose
7 dies as a result of failing to obtain the emergency medical
8 assistance, in which case the penalty for violating this
9 subsection (f) is a Class 1 felony.

10 (Source: P.A. 102-4, eff. 4-27-21; 102-476, eff. 1-1-22.)