

1-1 By: Raney, et al. (Senate Sponsor - Schwertner) H.B. No. 1694
 1-2 (In the Senate - Received from the House April 22, 2021;
 1-3 May 13, 2021, read first time and referred to Committee on Criminal
 1-4 Justice; May 20, 2021, reported favorably by the following vote:
 1-5 Yeas 6, Nays 0; May 20, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to a defense to prosecution for certain offenses involving
 1-18 possession of small amounts of controlled substances, marihuana,
 1-19 dangerous drugs, or abusable volatile chemicals, or possession of
 1-20 drug paraphernalia for defendants seeking assistance for a
 1-21 suspected overdose.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. This Act may be cited as the Jessica Sosa Act.

1-24 SECTION 2. Section 481.115, Health and Safety Code, is
 1-25 amended by adding Subsections (g), (h), and (i) to read as follows:

1-26 (g) It is a defense to prosecution for an offense punishable
 1-27 under Subsection (b) that the actor:

1-28 (1) was the first person to request emergency medical
 1-29 assistance in response to the possible overdose of another person
 1-30 and:

1-31 (A) made the request for medical assistance
 1-32 during an ongoing medical emergency;

1-33 (B) remained on the scene until the medical
 1-34 assistance arrived; and

1-35 (C) cooperated with medical assistance and law
 1-36 enforcement personnel; or

1-37 (2) was the victim of a possible overdose for which
 1-38 emergency medical assistance was requested, by the actor or by
 1-39 another person, during an ongoing medical emergency.

1-40 (h) The defense to prosecution provided by Subsection (g) is
 1-41 not available if:

1-42 (1) at the time the request for emergency medical
 1-43 assistance was made:

1-44 (A) a peace officer was in the process of
 1-45 arresting the actor or executing a search warrant describing the
 1-46 actor or the place from which the request for medical assistance was
 1-47 made; or

1-48 (B) the actor is committing another offense,
 1-49 other than an offense punishable under Section 481.1151(b)(1),
 1-50 481.116(b), 481.1161(b)(1) or (2), 481.117(b), 481.118(b), or
 1-51 481.121(b)(1) or (2), or an offense under Section 481.119(b),
 1-52 481.125(a), 483.041(a), or 485.031(a);

1-53 (2) the actor has been previously convicted of or
 1-54 placed on deferred adjudication community supervision for an
 1-55 offense under this chapter or Chapter 483 or 485;

1-56 (3) the actor was acquitted in a previous proceeding
 1-57 in which the actor successfully established the defense under that
 1-58 subsection or Section 481.1151(c), 481.116(f), 481.1161(c),
 1-59 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
 1-60 483.041(e), or 485.031(c); or

1-61 (4) at any time during the 18-month period preceding

2-1 the date of the commission of the instant offense, the actor
 2-2 requested emergency medical assistance in response to the possible
 2-3 overdose of the actor or another person.

2-4 (i) The defense to prosecution provided by Subsection (g)
 2-5 does not preclude the admission of evidence obtained by law
 2-6 enforcement resulting from the request for emergency medical
 2-7 assistance if that evidence pertains to an offense for which the
 2-8 defense described by Subsection (g) is not available.

2-9 SECTION 3. Section 481.1151, Health and Safety Code, is
 2-10 amended by adding Subsections (c), (d), and (e) to read as follows:

2-11 (c) It is a defense to prosecution for an offense punishable
 2-12 under Subsection (b)(1) that the actor:

2-13 (1) was the first person to request emergency medical
 2-14 assistance in response to the possible overdose of another person
 2-15 and:

2-16 (A) made the request for medical assistance
 2-17 during an ongoing medical emergency;

2-18 (B) remained on the scene until the medical
 2-19 assistance arrived; and

2-20 (C) cooperated with medical assistance and law
 2-21 enforcement personnel; or

2-22 (2) was the victim of a possible overdose for which
 2-23 emergency medical assistance was requested, by the actor or by
 2-24 another person, during an ongoing medical emergency.

2-25 (d) The defense to prosecution provided by Subsection (c) is
 2-26 not available if:

2-27 (1) at the time the request for emergency medical
 2-28 assistance was made:

2-29 (A) a peace officer was in the process of
 2-30 arresting the actor or executing a search warrant describing the
 2-31 actor or the place from which the request for medical assistance was
 2-32 made; or

2-33 (B) the actor is committing another offense,
 2-34 other than an offense punishable under Section 481.115(b),
 2-35 481.116(b), 481.1161(b)(1) or (2), 481.117(b), 481.118(b), or
 2-36 481.121(b)(1) or (2), or an offense under Section 481.119(b),
 2-37 481.125(a), 483.041(a), or 485.031(a);

2-38 (2) the actor has been previously convicted of or
 2-39 placed on deferred adjudication community supervision for an
 2-40 offense under this chapter or Chapter 483 or 485;

2-41 (3) the actor was acquitted in a previous proceeding
 2-42 in which the actor successfully established the defense under that
 2-43 subsection or Section 481.115(g), 481.116(f), 481.1161(c),
 2-44 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
 2-45 483.041(e), or 485.031(c); or

2-46 (4) at any time during the 18-month period preceding
 2-47 the date of the commission of the instant offense, the actor
 2-48 requested emergency medical assistance in response to the possible
 2-49 overdose of the actor or another person.

2-50 (e) The defense to prosecution provided by Subsection (c)
 2-51 does not preclude the admission of evidence obtained by law
 2-52 enforcement resulting from the request for emergency medical
 2-53 assistance if that evidence pertains to an offense for which the
 2-54 defense described by Subsection (c) is not available.

2-55 SECTION 4. Section 481.116, Health and Safety Code, is
 2-56 amended by adding Subsections (f), (g), and (h) to read as follows:

2-57 (f) It is a defense to prosecution for an offense punishable
 2-58 under Subsection (b) that the actor:

2-59 (1) was the first person to request emergency medical
 2-60 assistance in response to the possible overdose of another person
 2-61 and:

2-62 (A) made the request for medical assistance
 2-63 during an ongoing medical emergency;

2-64 (B) remained on the scene until the medical
 2-65 assistance arrived; and

2-66 (C) cooperated with medical assistance and law
 2-67 enforcement personnel; or

2-68 (2) was the victim of a possible overdose for which
 2-69 emergency medical assistance was requested, by the actor or by

3-1 another person, during an ongoing medical emergency.

3-2 (g) The defense to prosecution provided by Subsection (f) is
 3-3 not available if:

3-4 (1) at the time the request for emergency medical
 3-5 assistance was made:

3-6 (A) a peace officer was in the process of
 3-7 arresting the actor or executing a search warrant describing the
 3-8 actor or the place from which the request for medical assistance was
 3-9 made; or

3-10 (B) the actor is committing another offense,
 3-11 other than an offense punishable under Section 481.115(b),
 3-12 481.1151(b)(1), 481.1161(b)(1) or (2), 481.117(b), 481.118(b), or
 3-13 481.121(b)(1) or (2), or an offense under Section 481.119(b),
 3-14 481.125(a), 483.041(a), or 485.031(a);

3-15 (2) the actor has been previously convicted of or
 3-16 placed on deferred adjudication community supervision for an
 3-17 offense under this chapter or Chapter 483 or 485;

3-18 (3) the actor was acquitted in a previous proceeding
 3-19 in which the actor successfully established the defense under that
 3-20 subsection or Section 481.115(g), 481.1151(c), 481.1161(c),
 3-21 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
 3-22 483.041(e), or 485.031(c); or

3-23 (4) at any time during the 18-month period preceding
 3-24 the date of the commission of the instant offense, the actor
 3-25 requested emergency medical assistance in response to the possible
 3-26 overdose of the actor or another person.

3-27 (h) The defense to prosecution provided by Subsection (f)
 3-28 does not preclude the admission of evidence obtained by law
 3-29 enforcement resulting from the request for emergency medical
 3-30 assistance if that evidence pertains to an offense for which the
 3-31 defense described by Subsection (f) is not available.

3-32 SECTION 5. Section 481.1161, Health and Safety Code, is
 3-33 amended by adding Subsections (c), (d), and (e) to read as follows:

3-34 (c) It is a defense to prosecution for an offense punishable
 3-35 under Subsection (b)(1) or (2) that the actor:

3-36 (1) was the first person to request emergency medical
 3-37 assistance in response to the possible overdose of another person
 3-38 and:

3-39 (A) made the request for medical assistance
 3-40 during an ongoing medical emergency;

3-41 (B) remained on the scene until the medical
 3-42 assistance arrived; and

3-43 (C) cooperated with medical assistance and law
 3-44 enforcement personnel; or

3-45 (2) was the victim of a possible overdose for which
 3-46 emergency medical assistance was requested, by the actor or by
 3-47 another person, during an ongoing medical emergency.

3-48 (d) The defense to prosecution provided by Subsection (c) is
 3-49 not available if:

3-50 (1) at the time the request for emergency medical
 3-51 assistance was made:

3-52 (A) a peace officer was in the process of
 3-53 arresting the actor or executing a search warrant describing the
 3-54 actor or the place from which the request for medical assistance was
 3-55 made; or

3-56 (B) the actor is committing another offense,
 3-57 other than an offense punishable under Section 481.115(b),
 3-58 481.1151(b)(1), 481.116(b), 481.117(b), 481.118(b), or
 3-59 481.121(b)(1) or (2), or an offense under Section 481.119(b),
 3-60 481.125(a), 483.041(a), or 485.031(a);

3-61 (2) the actor has been previously convicted of or
 3-62 placed on deferred adjudication community supervision for an
 3-63 offense under this chapter or Chapter 483 or 485;

3-64 (3) the actor was acquitted in a previous proceeding
 3-65 in which the actor successfully established the defense under that
 3-66 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
 3-67 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
 3-68 483.041(e), or 485.031(c); or

3-69 (4) at any time during the 18-month period preceding

4-1 the date of the commission of the instant offense, the actor
 4-2 requested emergency medical assistance in response to the possible
 4-3 overdose of the actor or another person.

4-4 (e) The defense to prosecution provided by Subsection (c)
 4-5 does not preclude the admission of evidence obtained by law
 4-6 enforcement resulting from the request for emergency medical
 4-7 assistance if that evidence pertains to an offense for which the
 4-8 defense described by Subsection (c) is not available.

4-9 SECTION 6. Section 481.117, Health and Safety Code, is
 4-10 amended by adding Subsections (f), (g), and (h) to read as follows:

4-11 (f) It is a defense to prosecution for an offense punishable
 4-12 under Subsection (b) that the actor:

4-13 (1) was the first person to request emergency medical
 4-14 assistance in response to the possible overdose of another person
 4-15 and:

4-16 (A) made the request for medical assistance
 4-17 during an ongoing medical emergency;

4-18 (B) remained on the scene until the medical
 4-19 assistance arrived; and

4-20 (C) cooperated with medical assistance and law
 4-21 enforcement personnel; or

4-22 (2) was the victim of a possible overdose for which
 4-23 emergency medical assistance was requested, by the actor or by
 4-24 another person, during an ongoing medical emergency.

4-25 (g) The defense to prosecution provided by Subsection (f) is
 4-26 not available if:

4-27 (1) at the time the request for emergency medical
 4-28 assistance was made:

4-29 (A) a peace officer was in the process of
 4-30 arresting the actor or executing a search warrant describing the
 4-31 actor or the place from which the request for medical assistance was
 4-32 made; or

4-33 (B) the actor is committing another offense,
 4-34 other than an offense punishable under Section 481.115(b),
 4-35 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.118(b), or
 4-36 481.121(b)(1) or (2), or an offense under Section 481.119(b),
 4-37 481.125(a), 483.041(a), or 485.031(a);

4-38 (2) the actor has been previously convicted of or
 4-39 placed on deferred adjudication community supervision for an
 4-40 offense under this chapter or Chapter 483 or 485;

4-41 (3) the actor was acquitted in a previous proceeding
 4-42 in which the actor successfully established the defense under that
 4-43 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
 4-44 481.1161(c), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
 4-45 483.041(e), or 485.031(c); or

4-46 (4) at any time during the 18-month period preceding
 4-47 the date of the commission of the instant offense, the actor
 4-48 requested emergency medical assistance in response to the possible
 4-49 overdose of the actor or another person.

4-50 (h) The defense to prosecution provided by Subsection (f)
 4-51 does not preclude the admission of evidence obtained by law
 4-52 enforcement resulting from the request for emergency medical
 4-53 assistance if that evidence pertains to an offense for which the
 4-54 defense described by Subsection (f) is not available.

4-55 SECTION 7. Section 481.118, Health and Safety Code, is
 4-56 amended by adding Subsections (f), (g), and (h) to read as follows:

4-57 (f) It is a defense to prosecution for an offense punishable
 4-58 under Subsection (b) that the actor:

4-59 (1) was the first person to request emergency medical
 4-60 assistance in response to the possible overdose of another person
 4-61 and:

4-62 (A) made the request for medical assistance
 4-63 during an ongoing medical emergency;

4-64 (B) remained on the scene until the medical
 4-65 assistance arrived; and

4-66 (C) cooperated with medical assistance and law
 4-67 enforcement personnel; or

4-68 (2) was the victim of a possible overdose for which
 4-69 emergency medical assistance was requested, by the actor or by

5-1 another person, during an ongoing medical emergency.

5-2 (g) The defense to prosecution provided by Subsection (f) is
5-3 not available if:

5-4 (1) at the time the request for emergency medical
5-5 assistance was made:

5-6 (A) a peace officer was in the process of
5-7 arresting the actor or executing a search warrant describing the
5-8 actor or the place from which the request for medical assistance was
5-9 made; or

5-10 (B) the actor is committing another offense,
5-11 other than an offense punishable under Section 481.115(b),
5-12 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b), or
5-13 481.121(b)(1) or (2), or an offense under Section 481.119(b),
5-14 481.125(a), 483.041(a), or 485.031(a);

5-15 (2) the actor has been previously convicted of or
5-16 placed on deferred adjudication community supervision for an
5-17 offense under this chapter or Chapter 483 or 485;

5-18 (3) the actor was acquitted in a previous proceeding
5-19 in which the actor successfully established the defense under that
5-20 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
5-21 481.1161(c), 481.117(f), 481.119(c), 481.121(c), 481.125(g),
5-22 483.041(e), or 485.031(c); or

5-23 (4) at any time during the 18-month period preceding
5-24 the date of the commission of the instant offense, the actor
5-25 requested emergency medical assistance in response to the possible
5-26 overdose of the actor or another person.

5-27 (h) The defense to prosecution provided by Subsection (f)
5-28 does not preclude the admission of evidence obtained by law
5-29 enforcement resulting from the request for emergency medical
5-30 assistance if that evidence pertains to an offense for which the
5-31 defense described by Subsection (f) is not available.

5-32 SECTION 8. Section 481.119, Health and Safety Code, is
5-33 amended by adding Subsections (c), (d), and (e) to read as follows:

5-34 (c) It is a defense to prosecution for an offense under
5-35 Subsection (b) that the actor:

5-36 (1) was the first person to request emergency medical
5-37 assistance in response to the possible overdose of another person
5-38 and:

5-39 (A) made the request for medical assistance
5-40 during an ongoing medical emergency;

5-41 (B) remained on the scene until the medical
5-42 assistance arrived; and

5-43 (C) cooperated with medical assistance and law
5-44 enforcement personnel; or

5-45 (2) was the victim of a possible overdose for which
5-46 emergency medical assistance was requested, by the actor or by
5-47 another person, during an ongoing medical emergency.

5-48 (d) The defense to prosecution provided by Subsection (c) is
5-49 not available if:

5-50 (1) at the time the request for emergency medical
5-51 assistance was made:

5-52 (A) a peace officer was in the process of
5-53 arresting the actor or executing a search warrant describing the
5-54 actor or the place from which the request for medical assistance was
5-55 made; or

5-56 (B) the actor is committing another offense,
5-57 other than an offense punishable under Section 481.115(b),
5-58 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
5-59 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
5-60 481.125(a), 483.041(a), or 485.031(a);

5-61 (2) the actor has been previously convicted of or
5-62 placed on deferred adjudication community supervision for an
5-63 offense under this chapter or Chapter 483 or 485;

5-64 (3) the actor was acquitted in a previous proceeding
5-65 in which the actor successfully established the defense under that
5-66 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
5-67 481.1161(c), 481.117(f), 481.118(f), 481.121(c), 481.125(g),
5-68 483.041(e), or 485.031(c); or

5-69 (4) at any time during the 18-month period preceding

6-1 the date of the commission of the instant offense, the actor
 6-2 requested emergency medical assistance in response to the possible
 6-3 overdose of the actor or another person.

6-4 (e) The defense to prosecution provided by Subsection (c)
 6-5 does not preclude the admission of evidence obtained by law
 6-6 enforcement resulting from the request for emergency medical
 6-7 assistance if that evidence pertains to an offense for which the
 6-8 defense described by Subsection (c) is not available.

6-9 SECTION 9. Section 481.121, Health and Safety Code, is
 6-10 amended by adding Subsections (c), (d), and (e) to read as follows:

6-11 (c) It is a defense to prosecution for an offense punishable
 6-12 under Subsection (b)(1) or (2) that the actor:

6-13 (1) was the first person to request emergency medical
 6-14 assistance in response to the possible overdose of another person
 6-15 and:

6-16 (A) made the request for medical assistance
 6-17 during an ongoing medical emergency;

6-18 (B) remained on the scene until the medical
 6-19 assistance arrived; and

6-20 (C) cooperated with medical assistance and law
 6-21 enforcement personnel; or

6-22 (2) was the victim of a possible overdose for which
 6-23 emergency medical assistance was requested, by the actor or by
 6-24 another person, during an ongoing medical emergency.

6-25 (d) The defense to prosecution provided by Subsection (c) is
 6-26 not available if:

6-27 (1) at the time the request for emergency medical
 6-28 assistance was made:

6-29 (A) a peace officer was in the process of
 6-30 arresting the actor or executing a search warrant describing the
 6-31 actor or the place from which the request for medical assistance was
 6-32 made; or

6-33 (B) the actor is committing another offense,
 6-34 other than an offense punishable under Section 481.115(b),
 6-35 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b), or
 6-36 481.118(b), or an offense under Section 481.119(b), 481.125(a),
 6-37 483.041(a), or 485.031(a);

6-38 (2) the actor has been previously convicted of or
 6-39 placed on deferred adjudication community supervision for an
 6-40 offense under this chapter or Chapter 483 or 485;

6-41 (3) the actor was acquitted in a previous proceeding
 6-42 in which the actor successfully established the defense under that
 6-43 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
 6-44 481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.125(g),
 6-45 483.041(e), or 485.031(c); or

6-46 (4) at any time during the 18-month period preceding
 6-47 the date of the commission of the instant offense, the actor
 6-48 requested emergency medical assistance in response to the possible
 6-49 overdose of the actor or another person.

6-50 (e) The defense to prosecution provided by Subsection (c)
 6-51 does not preclude the admission of evidence obtained by law
 6-52 enforcement resulting from the request for emergency medical
 6-53 assistance if that evidence pertains to an offense for which the
 6-54 defense described by Subsection (c) is not available.

6-55 SECTION 10. Section 481.125, Health and Safety Code, is
 6-56 amended by adding Subsections (g), (h), and (i) to read as follows:

6-57 (g) It is a defense to prosecution for an offense under
 6-58 Subsection (a) that the actor:

6-59 (1) was the first person to request emergency medical
 6-60 assistance in response to the possible overdose of another person
 6-61 and:

6-62 (A) made the request for medical assistance
 6-63 during an ongoing medical emergency;

6-64 (B) remained on the scene until the medical
 6-65 assistance arrived; and

6-66 (C) cooperated with medical assistance and law
 6-67 enforcement personnel; or

6-68 (2) was the victim of a possible overdose for which
 6-69 emergency medical assistance was requested, by the actor or by

7-1 another person, during an ongoing medical emergency.

7-2 (h) The defense to prosecution provided by Subsection (g) is
 7-3 not available if:

7-4 (1) at the time the request for emergency medical
 7-5 assistance was made:

7-6 (A) a peace officer was in the process of
 7-7 arresting the actor or executing a search warrant describing the
 7-8 actor or the place from which the request for medical assistance was
 7-9 made; or

7-10 (B) the actor is committing another offense,
 7-11 other than an offense punishable under Section 481.115(b),
 7-12 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
 7-13 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
 7-14 481.119(b), 483.041(a), or 485.031(a);

7-15 (2) the actor has been previously convicted of or
 7-16 placed on deferred adjudication community supervision for an
 7-17 offense under this chapter or Chapter 483 or 485;

7-18 (3) the actor was acquitted in a previous proceeding
 7-19 in which the actor successfully established the defense under that
 7-20 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
 7-21 481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),
 7-22 483.041(e), or 485.031(c); or

7-23 (4) at any time during the 18-month period preceding
 7-24 the date of the commission of the instant offense, the actor
 7-25 requested emergency medical assistance in response to the possible
 7-26 overdose of the actor or another person.

7-27 (i) The defense to prosecution provided by Subsection (g)
 7-28 does not preclude the admission of evidence obtained by law
 7-29 enforcement resulting from the request for emergency medical
 7-30 assistance if that evidence pertains to an offense for which the
 7-31 defense described by Subsection (g) is not available.

7-32 SECTION 11. Section 483.041, Health and Safety Code, is
 7-33 amended by adding Subsections (e), (f), and (g) to read as follows:

7-34 (e) It is a defense to prosecution for an offense under
 7-35 Subsection (a) that the actor:

7-36 (1) was the first person to request emergency medical
 7-37 assistance in response to the possible overdose of another person
 7-38 and:

7-39 (A) made the request for medical assistance
 7-40 during an ongoing medical emergency;

7-41 (B) remained on the scene until the medical
 7-42 assistance arrived; and

7-43 (C) cooperated with medical assistance and law
 7-44 enforcement personnel; or

7-45 (2) was the victim of a possible overdose for which
 7-46 emergency medical assistance was requested, by the actor or by
 7-47 another person, during an ongoing medical emergency.

7-48 (f) The defense to prosecution provided by Subsection (e) is
 7-49 not available if:

7-50 (1) at the time the request for emergency medical
 7-51 assistance was made:

7-52 (A) a peace officer was in the process of
 7-53 arresting the actor or executing a search warrant describing the
 7-54 actor or the place from which the request for medical assistance was
 7-55 made; or

7-56 (B) the actor is committing another offense,
 7-57 other than an offense punishable under Section 481.115(b),
 7-58 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
 7-59 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
 7-60 481.119(b), 481.125(a), or 485.031(a);

7-61 (2) the actor has been previously convicted of or
 7-62 placed on deferred adjudication community supervision for an
 7-63 offense under this chapter or Chapter 481 or 485;

7-64 (3) the actor was acquitted in a previous proceeding
 7-65 in which the actor successfully established the defense under that
 7-66 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
 7-67 481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),
 7-68 481.125(g), or 485.031(c); or

7-69 (4) at any time during the 18-month period preceding

8-1 the date of the commission of the instant offense, the actor
 8-2 requested emergency medical assistance in response to the possible
 8-3 overdose of the actor or another person.

8-4 (g) The defense to prosecution provided by Subsection (e)
 8-5 does not preclude the admission of evidence obtained by law
 8-6 enforcement resulting from the request for emergency medical
 8-7 assistance if that evidence pertains to an offense for which the
 8-8 defense described by Subsection (e) is not available.

8-9 SECTION 12. Section 485.031, Health and Safety Code, is
 8-10 amended by adding Subsections (c), (d), and (e) to read as follows:

8-11 (c) It is a defense to prosecution for an offense under
 8-12 Subsection (a) that the actor:

8-13 (1) was the first person to request emergency medical
 8-14 assistance in response to the possible overdose of another person
 8-15 and:

8-16 (A) made the request for medical assistance
 8-17 during an ongoing medical emergency;

8-18 (B) remained on the scene until the medical
 8-19 assistance arrived; and

8-20 (C) cooperated with medical assistance and law
 8-21 enforcement personnel; or

8-22 (2) was the victim of a possible overdose for which
 8-23 emergency medical assistance was requested, by the actor or by
 8-24 another person, during an ongoing medical emergency.

8-25 (d) The defense to prosecution provided by Subsection (c) is
 8-26 not available if:

8-27 (1) at the time the request for emergency medical
 8-28 assistance was made:

8-29 (A) a peace officer was in the process of
 8-30 arresting the actor or executing a search warrant describing the
 8-31 actor or the place from which the request for medical assistance was
 8-32 made; or

8-33 (B) the actor is committing another offense,
 8-34 other than an offense punishable under Section 481.115(b),
 8-35 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
 8-36 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
 8-37 481.119(b), 481.125(a), or 483.041(a);

8-38 (2) the actor has been previously convicted of or
 8-39 placed on deferred adjudication community supervision for an
 8-40 offense under this chapter or Chapter 481 or 483;

8-41 (3) the actor was acquitted in a previous proceeding
 8-42 in which the actor successfully established the defense under that
 8-43 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
 8-44 481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),
 8-45 481.125(g), or 483.041(e); or

8-46 (4) at any time during the 18-month period preceding
 8-47 the date of the commission of the instant offense, the actor
 8-48 requested emergency medical assistance in response to the possible
 8-49 overdose of the actor or another person.

8-50 (e) The defense to prosecution provided by Subsection (c)
 8-51 does not preclude the admission of evidence obtained by law
 8-52 enforcement resulting from the request for emergency medical
 8-53 assistance if that evidence pertains to an offense for which the
 8-54 defense described by Subsection (c) is not available.

8-55 SECTION 13. The change in law made by this Act applies only
 8-56 to an offense committed on or after the effective date of this Act.
 8-57 An offense committed before the effective date of this Act is
 8-58 governed by the law in effect on the date the offense was committed,
 8-59 and the former law is continued in effect for that purpose. For
 8-60 purposes of this section, an offense was committed before the
 8-61 effective date of this Act if any element of the offense occurred
 8-62 before that date.

8-63 SECTION 14. This Act takes effect September 1, 2021.

8-64 * * * * *