

1-1 By: Guillen, Johnson, King of Taylor H.B. No. 225
 1-2 (Senate Sponsor - Watson)
 1-3 (In the Senate - Received from the House April 14, 2015;
 1-4 April 21, 2015, read first time and referred to Committee on
 1-5 Criminal Justice; April 30, 2015, reported adversely, with
 1-6 favorable Committee Substitute by the following vote: Yeas 7,
 1-7 Nays 0; April 30, 2015, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 COMMITTEE SUBSTITUTE FOR H.B. No. 225 By: Burton

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to the prescription, administration, and possession of
 1-21 certain opioid antagonists for the treatment of a suspected
 1-22 overdose and a defense to prosecution for certain offenses
 1-23 involving controlled substances and other prohibited drugs,
 1-24 substances, or paraphernalia for defendants seeking assistance for
 1-25 a suspected overdose.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 481.115, Health and Safety Code, is
 1-28 amended by adding Subsections (g), (h), and (i) to read as follows:

1-29 (g) It is a defense to prosecution for an offense punishable
 1-30 under Subsection (b) that the actor:

1-31 (1) requested emergency medical assistance in
 1-32 response to the possible overdose of another person and:

1-33 (A) made the request for medical assistance
 1-34 during an ongoing medical emergency;

1-35 (B) remained on the scene until the medical
 1-36 assistance arrived; and

1-37 (C) cooperated with medical assistance and law
 1-38 enforcement personnel; or

1-39 (2) was the victim of a possible overdose for which
 1-40 emergency medical assistance was requested, by the actor or by
 1-41 another person, during an ongoing medical emergency.

1-42 (h) The defense to prosecution provided by Subsection (g) is
 1-43 not available if, at the time the request for emergency medical
 1-44 assistance was made, a peace officer was in the process of arresting
 1-45 the actor or executing a search warrant describing the actor or the
 1-46 place from which the request for medical assistance was made.

1-47 (i) The defense to prosecution provided by Subsection (g)
 1-48 does not preclude the admission of evidence obtained by law
 1-49 enforcement resulting from the request for emergency medical
 1-50 assistance if that evidence pertains to an offense for which the
 1-51 defense described by Subsection (g) is not available.

1-52 SECTION 2. Section 481.1151, Health and Safety Code, is
 1-53 amended by adding Subsections (c), (d), and (e) to read as follows:

1-54 (c) It is a defense to prosecution for an offense punishable
 1-55 under Subsection (b)(1) that the actor:

1-56 (1) requested emergency medical assistance in
 1-57 response to the possible overdose of another person and:

1-58 (A) made the request for medical assistance
 1-59 during an ongoing medical emergency;

1-60 (B) remained on the scene until the medical

2-1 assistance arrived; and

2-2 (C) cooperated with medical assistance and law
2-3 enforcement personnel; or

2-4 (2) was the victim of a possible overdose for which
2-5 emergency medical assistance was requested, by the actor or by
2-6 another person, during an ongoing medical emergency.

2-7 (d) The defense to prosecution provided by Subsection (c) is
2-8 not available if, at the time the request for emergency medical
2-9 assistance was made, a peace officer was in the process of arresting
2-10 the actor or executing a search warrant describing the actor or the
2-11 place from which the request for medical assistance was made.

2-12 (e) The defense to prosecution provided by Subsection (c)
2-13 does not preclude the admission of evidence obtained by law
2-14 enforcement resulting from the request for emergency medical
2-15 assistance if that evidence pertains to an offense for which the
2-16 defense described by Subsection (c) is not available.

2-17 SECTION 3. Section 481.116, Health and Safety Code, is
2-18 amended by adding Subsections (f), (g), and (h) to read as follows:

2-19 (f) It is a defense to prosecution for an offense punishable
2-20 under Subsection (b) that the actor:

2-21 (1) requested emergency medical assistance in
2-22 response to the possible overdose of another person and:

2-23 (A) made the request for medical assistance
2-24 during an ongoing medical emergency;

2-25 (B) remained on the scene until the medical
2-26 assistance arrived; and

2-27 (C) cooperated with medical assistance and law
2-28 enforcement personnel; or

2-29 (2) was the victim of a possible overdose for which
2-30 emergency medical assistance was requested, by the actor or by
2-31 another person, during an ongoing medical emergency.

2-32 (g) The defense to prosecution provided by Subsection (f) is
2-33 not available if, at the time the request for emergency medical
2-34 assistance was made, a peace officer was in the process of arresting
2-35 the actor or executing a search warrant describing the actor or the
2-36 place from which the request for medical assistance was made.

2-37 (h) The defense to prosecution provided by Subsection (f)
2-38 does not preclude the admission of evidence obtained by law
2-39 enforcement resulting from the request for emergency medical
2-40 assistance if that evidence pertains to an offense for which the
2-41 defense described by Subsection (f) is not available.

2-42 SECTION 4. Section 481.1161, Health and Safety Code, is
2-43 amended by adding Subsections (c), (d), and (e) to read as follows:

2-44 (c) It is a defense to prosecution for an offense punishable
2-45 under Subsection (b)(1) or (2) that the actor:

2-46 (1) requested emergency medical assistance in
2-47 response to the possible overdose of another person and:

2-48 (A) made the request for medical assistance
2-49 during an ongoing medical emergency;

2-50 (B) remained on the scene until the medical
2-51 assistance arrived; and

2-52 (C) cooperated with medical assistance and law
2-53 enforcement personnel; or

2-54 (2) was the victim of a possible overdose for which
2-55 emergency medical assistance was requested, by the actor or by
2-56 another person, during an ongoing medical emergency.

2-57 (d) The defense to prosecution provided by Subsection (c) is
2-58 not available if, at the time the request for emergency medical
2-59 assistance was made, a peace officer was in the process of arresting
2-60 the actor or executing a search warrant describing the actor or the
2-61 place from which the request for medical assistance was made.

2-62 (e) The defense to prosecution provided by Subsection (c)
2-63 does not preclude the admission of evidence obtained by law
2-64 enforcement resulting from the request for emergency medical
2-65 assistance if that evidence pertains to an offense for which the
2-66 defense described by Subsection (c) is not available.

2-67 SECTION 5. Section 481.117, Health and Safety Code, is
2-68 amended by adding Subsections (f), (g), and (h) to read as follows:

2-69 (f) It is a defense to prosecution for an offense punishable

3-1 under Subsection (b) that the actor:
 3-2 (1) requested emergency medical assistance in
 3-3 response to the possible overdose of another person and:
 3-4 (A) made the request for medical assistance
 3-5 during an ongoing medical emergency;
 3-6 (B) remained on the scene until the medical
 3-7 assistance arrived; and
 3-8 (C) cooperated with medical assistance and law
 3-9 enforcement personnel; or
 3-10 (2) was the victim of a possible overdose for which
 3-11 emergency medical assistance was requested, by the actor or by
 3-12 another person, during an ongoing medical emergency.

3-13 (g) The defense to prosecution provided by Subsection (f) is
 3-14 not available if, at the time the request for emergency medical
 3-15 assistance was made, a peace officer was in the process of arresting
 3-16 the actor or executing a search warrant describing the actor or the
 3-17 place from which the request for medical assistance was made.

3-18 (h) The defense to prosecution provided by Subsection (f)
 3-19 does not preclude the admission of evidence obtained by law
 3-20 enforcement resulting from the request for emergency medical
 3-21 assistance if that evidence pertains to an offense for which the
 3-22 defense described by Subsection (f) is not available.

3-23 SECTION 6. Section 481.118, Health and Safety Code, is
 3-24 amended by adding Subsections (f), (g), and (h) to read as follows:

3-25 (f) It is a defense to prosecution for an offense punishable
 3-26 under Subsection (b) that the actor:

3-27 (1) requested emergency medical assistance in
 3-28 response to the possible overdose of another person and:

3-29 (A) made the request for medical assistance
 3-30 during an ongoing medical emergency;

3-31 (B) remained on the scene until the medical
 3-32 assistance arrived; and

3-33 (C) cooperated with medical assistance and law
 3-34 enforcement personnel; or

3-35 (2) was the victim of a possible overdose for which
 3-36 emergency medical assistance was requested, by the actor or by
 3-37 another person, during an ongoing medical emergency.

3-38 (g) The defense to prosecution provided by Subsection (f) is
 3-39 not available if, at the time the request for emergency medical
 3-40 assistance was made, a peace officer was in the process of arresting
 3-41 the actor or executing a search warrant describing the actor or the
 3-42 place from which the request for medical assistance was made.

3-43 (h) The defense to prosecution provided by Subsection (f)
 3-44 does not preclude the admission of evidence obtained by law
 3-45 enforcement resulting from the request for emergency medical
 3-46 assistance if that evidence pertains to an offense for which the
 3-47 defense described by Subsection (f) is not available.

3-48 SECTION 7. Section 481.119, Health and Safety Code, is
 3-49 amended by adding Subsections (c), (d), and (e) to read as follows:

3-50 (c) It is a defense to prosecution for an offense under
 3-51 Subsection (b) that the actor:

3-52 (1) requested emergency medical assistance in
 3-53 response to the possible overdose of another person and:

3-54 (A) made the request for medical assistance
 3-55 during an ongoing medical emergency;

3-56 (B) remained on the scene until the medical
 3-57 assistance arrived; and

3-58 (C) cooperated with medical assistance and law
 3-59 enforcement personnel; or

3-60 (2) was the victim of a possible overdose for which
 3-61 emergency medical assistance was requested, by the actor or by
 3-62 another person, during an ongoing medical emergency.

3-63 (d) The defense to prosecution provided by Subsection (c) is
 3-64 not available if, at the time the request for emergency medical
 3-65 assistance was made, a peace officer was in the process of arresting
 3-66 the actor or executing a search warrant describing the actor or the
 3-67 place from which the request for medical assistance was made.

3-68 (e) The defense to prosecution provided by Subsection (c)
 3-69 does not preclude the admission of evidence obtained by law

4-1 enforcement resulting from the request for emergency medical
 4-2 assistance if that evidence pertains to an offense for which the
 4-3 defense described by Subsection (c) is not available.

4-4 SECTION 8. Section 481.121, Health and Safety Code, is
 4-5 amended by adding Subsections (c), (d), and (e) to read as follows:

4-6 (c) It is a defense to prosecution for an offense punishable
 4-7 under Subsection (b)(1) or (2) that the actor:

4-8 (1) requested emergency medical assistance in
 4-9 response to the possible overdose of another person and:

4-10 (A) made the request for medical assistance
 4-11 during an ongoing medical emergency;

4-12 (B) remained on the scene until the medical
 4-13 assistance arrived; and

4-14 (C) cooperated with medical assistance and law
 4-15 enforcement personnel; or

4-16 (2) was the victim of a possible overdose for which
 4-17 emergency medical assistance was requested, by the actor or by
 4-18 another person, during an ongoing medical emergency.

4-19 (d) The defense to prosecution provided by Subsection (c) is
 4-20 not available if, at the time the request for emergency medical
 4-21 assistance was made, a peace officer was in the process of arresting
 4-22 the actor or executing a search warrant describing the actor or the
 4-23 place from which the request for medical assistance was made.

4-24 (e) The defense to prosecution provided by Subsection (c)
 4-25 does not preclude the admission of evidence obtained by law
 4-26 enforcement resulting from the request for emergency medical
 4-27 assistance if that evidence pertains to an offense for which the
 4-28 defense described by Subsection (c) is not available.

4-29 SECTION 9. Section 481.125, Health and Safety Code, is
 4-30 amended by adding Subsections (g), (h), and (i) to read as follows:

4-31 (g) It is a defense to prosecution for an offense under
 4-32 Subsection (a) that the actor:

4-33 (1) requested emergency medical assistance in
 4-34 response to the possible overdose of another person and:

4-35 (A) made the request for medical assistance
 4-36 during an ongoing medical emergency;

4-37 (B) remained on the scene until the medical
 4-38 assistance arrived; and

4-39 (C) cooperated with medical assistance and law
 4-40 enforcement personnel; or

4-41 (2) was the victim of a possible overdose for which
 4-42 emergency medical assistance was requested, by the actor or by
 4-43 another person, during an ongoing medical emergency.

4-44 (h) The defense to prosecution provided by Subsection (g) is
 4-45 not available if, at the time the request for emergency medical
 4-46 assistance was made, a peace officer was in the process of arresting
 4-47 the actor or executing a search warrant describing the actor or the
 4-48 place from which the request for medical assistance was made.

4-49 (i) The defense to prosecution provided by Subsection (g)
 4-50 does not preclude the admission of evidence obtained by law
 4-51 enforcement resulting from the request for emergency medical
 4-52 assistance if that evidence pertains to an offense for which the
 4-53 defense described by Subsection (g) is not available.

4-54 SECTION 10. Section 483.041, Health and Safety Code, is
 4-55 amended by adding Subsections (e), (f), and (g) to read as follows:

4-56 (e) It is a defense to prosecution for an offense under
 4-57 Subsection (a) that the actor:

4-58 (1) requested emergency medical assistance in
 4-59 response to the possible overdose of another person and:

4-60 (A) made the request for medical assistance
 4-61 during an ongoing medical emergency;

4-62 (B) remained on the scene until the medical
 4-63 assistance arrived; and

4-64 (C) cooperated with medical assistance and law
 4-65 enforcement personnel; or

4-66 (2) was the victim of a possible overdose for which
 4-67 emergency medical assistance was requested, by the actor or by
 4-68 another person, during an ongoing medical emergency.

4-69 (f) The defense to prosecution provided by Subsection (e) is

5-1 not available if, at the time the request for emergency medical
 5-2 assistance was made, a peace officer was in the process of arresting
 5-3 the actor or executing a search warrant describing the actor or the
 5-4 place from which the request for medical assistance was made.

5-5 (g) The defense to prosecution provided by Subsection (e)
 5-6 does not preclude the admission of evidence obtained by law
 5-7 enforcement resulting from the request for emergency medical
 5-8 assistance if that evidence pertains to an offense for which the
 5-9 defense described by Subsection (e) is not available.

5-10 SECTION 11. Section 485.031, Health and Safety Code, is
 5-11 amended by adding Subsections (c), (d), and (e) to read as follows:

5-12 (c) It is a defense to prosecution for an offense under
 5-13 Subsection (a) that the actor:

5-14 (1) requested emergency medical assistance in
 5-15 response to the possible overdose of another person and:

5-16 (A) made the request for medical assistance
 5-17 during an ongoing medical emergency;

5-18 (B) remained on the scene until the medical
 5-19 assistance arrived; and

5-20 (C) cooperated with medical assistance and law
 5-21 enforcement personnel; or

5-22 (2) was the victim of a possible overdose for which
 5-23 emergency medical assistance was requested, by the actor or by
 5-24 another person, during an ongoing medical emergency.

5-25 (d) The defense to prosecution provided by Subsection (c) is
 5-26 not available if, at the time the request for emergency medical
 5-27 assistance was made, a peace officer was in the process of arresting
 5-28 the actor or executing a search warrant describing the actor or the
 5-29 place from which the request for medical assistance was made.

5-30 (e) The defense to prosecution provided by Subsection (c)
 5-31 does not preclude the admission of evidence obtained by law
 5-32 enforcement resulting from the request for emergency medical
 5-33 assistance if that evidence pertains to an offense for which the
 5-34 defense described by Subsection (c) is not available.

5-35 SECTION 12. Chapter 483, Health and Safety Code, is amended
 5-36 by adding Subchapter E to read as follows:

5-37 SUBCHAPTER E. OPIOID ANTAGONISTS

5-38 Sec. 483.101. DEFINITIONS. In this subchapter:

5-39 (1) "Emergency services personnel" includes
 5-40 firefighters, emergency medical services personnel as defined by
 5-41 Section 773.003, emergency room personnel, and other individuals
 5-42 who, in the course and scope of employment or as a volunteer,
 5-43 provide services for the benefit of the general public during
 5-44 emergency situations.

5-45 (2) "Opioid antagonist" means any drug that binds to
 5-46 opioid receptors and blocks or otherwise inhibits the effects of
 5-47 opioids acting on those receptors.

5-48 (3) "Opioid-related drug overdose" means a condition,
 5-49 evidenced by symptoms such as extreme physical illness, decreased
 5-50 level of consciousness, constriction of the pupils, respiratory
 5-51 depression, or coma, that a layperson would reasonably believe to
 5-52 be the result of the consumption or use of an opioid.

5-53 (4) "Prescriber" means a person authorized by law to
 5-54 prescribe an opioid antagonist.

5-55 Sec. 483.102. PRESCRIPTION OF OPIOID ANTAGONIST; STANDING
 5-56 ORDER. (a) A prescriber may, directly or by standing order,
 5-57 prescribe an opioid antagonist to:

5-58 (1) a person at risk of experiencing an opioid-related
 5-59 drug overdose; or

5-60 (2) a family member, friend, or other person in a
 5-61 position to assist a person described by Subdivision (1).

5-62 (b) A prescription issued under this section is considered
 5-63 as issued for a legitimate medical purpose in the usual course of
 5-64 professional practice.

5-65 (c) A prescriber who, acting in good faith with reasonable
 5-66 care, prescribes or does not prescribe an opioid antagonist is not
 5-67 subject to any criminal or civil liability or any professional
 5-68 disciplinary action for:

5-69 (1) prescribing or failing to prescribe the opioid

6-1 antagonist; or
 6-2 (2) if the prescriber chooses to prescribe an opioid
 6-3 antagonist, any outcome resulting from the eventual administration
 6-4 of the opioid antagonist.

6-5 Sec. 483.103. DISPENSING OF OPIOID ANTAGONIST. (a) A
 6-6 pharmacist may dispense an opioid antagonist under a valid
 6-7 prescription to:

6-8 (1) a person at risk of experiencing an opioid-related
 6-9 drug overdose; or

6-10 (2) a family member, friend, or other person in a
 6-11 position to assist a person described by Subdivision (1).

6-12 (b) A prescription filled under this section is considered
 6-13 as filled for a legitimate medical purpose in the usual course of
 6-14 professional practice.

6-15 (c) A pharmacist who, acting in good faith and with
 6-16 reasonable care, dispenses or does not dispense an opioid
 6-17 antagonist under a valid prescription is not subject to any
 6-18 criminal or civil liability or any professional disciplinary action
 6-19 for:

6-20 (1) dispensing or failing to dispense the opioid
 6-21 antagonist; or

6-22 (2) if the pharmacist chooses to dispense an opioid
 6-23 antagonist, any outcome resulting from the eventual administration
 6-24 of the opioid antagonist.

6-25 Sec. 483.104. DISTRIBUTION OF OPIOID ANTAGONIST; STANDING
 6-26 ORDER. A person or organization acting under a standing order
 6-27 issued by a prescriber may store an opioid antagonist and may
 6-28 distribute an opioid antagonist, provided the person or
 6-29 organization does not request or receive compensation for storage
 6-30 or distribution.

6-31 Sec. 483.105. POSSESSION OF OPIOID ANTAGONIST. Any person
 6-32 may possess an opioid antagonist, regardless of whether the person
 6-33 holds a prescription for the opioid antagonist.

6-34 Sec. 483.106. ADMINISTRATION OF OPIOID ANTAGONIST. (a) A
 6-35 person who, acting in good faith and with reasonable care,
 6-36 administers or does not administer an opioid antagonist to another
 6-37 person whom the person believes is suffering an opioid-related drug
 6-38 overdose is not subject to criminal prosecution, sanction under any
 6-39 professional licensing statute, or civil liability, for an act or
 6-40 omission resulting from the administration of or failure to
 6-41 administer the opioid antagonist.

6-42 (b) Emergency services personnel are authorized to
 6-43 administer an opioid antagonist to a person who appears to be
 6-44 suffering an opioid-related drug overdose, as clinically
 6-45 indicated.

6-46 Sec. 483.107. GRANTS. The Health and Human Services
 6-47 Commission may issue grants for:

6-48 (1) drug overdose prevention;

6-49 (2) recognition and response education for
 6-50 individuals, family members, and emergency services personnel; and

6-51 (3) opioid antagonist prescription or distribution
 6-52 projects.

6-53 Sec. 483.108. CONFLICT OF LAW. To the extent of a conflict
 6-54 between this subchapter and another law, this subchapter controls.

6-55 SECTION 13. (a) The change in law made by this Act relating
 6-56 to conduct that is grounds for imposition of a disciplinary
 6-57 sanction applies only to conduct that occurs on or after September
 6-58 1, 2015.

6-59 (b) Conduct that occurs before September 1, 2015, is
 6-60 governed by the law in effect on the date the conduct occurred, and
 6-61 the former law is continued in effect for that purpose.

6-62 SECTION 14. (a) The change in law made by this Act relating
 6-63 to conduct that is the basis for civil liability applies only to
 6-64 conduct that occurs on or after September 1, 2015.

6-65 (b) Conduct that occurs before September 1, 2015, is
 6-66 governed by the law in effect on the date the conduct occurred, and
 6-67 the former law is continued in effect for that purpose.

6-68 SECTION 15. (a) The change in law made by this Act relating
 6-69

7-1 to conduct that constitutes a criminal offense applies only to an
7-2 offense committed on or after September 1, 2015.

7-3 (b) For purposes of this section, an offense is committed
7-4 before September 1, 2015, if any element of the offense occurs
7-5 before that date.

7-6 (c) An offense committed before September 1, 2015, is
7-7 governed by the law in effect on the date the offense was committed,
7-8 and the former law is continued in effect for that purpose.

7-9 SECTION 16. This Act takes effect September 1, 2015.

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