

By: Johnson

H.B. No. 2690

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prevention of overdose deaths by providing a
3 defense for prosecution for certain offenses involving the delivery
4 or possession of controlled substances and other prohibited drugs,
5 substances, or paraphernalia for certain persons who seek medical
6 attention for a suspected opioid overdose, and the prescription,
7 administration, and possession of certain opioid antagonists for
8 the treatment of suspected opioid overdoses.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

10 SECTION 1. Section 481.115, Health and Safety Code, is
11 amended by adding Subsection (g) to read as follows:

12 (g) It is a defense to prosecution for an offense punishable
13 under Subsection (b) that the actor:

14 (1) requested emergency medical assistance in
15 response to the possible overdose of the actor or another person;

16 (2) was the first person to make a request for medical
17 assistance under Subdivision (1); and

18 (3) if the actor requested emergency medical
19 assistance in response to the possible overdose of another person:

20 (A) remained on the scene until the medical
21 assistance arrived; and

22 (B) cooperated with medical assistance and law
23 enforcement personnel.

24 SECTION 2. Section 481.1151, Health and Safety Code, is

1 amended by adding Subsection (c) to read as follows:

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

4 (1) requested emergency medical assistance in
5 response to the possible overdose of the actor or another person;

6 (2) was the first person to make a request for medical
7 assistance under Subdivision (1); and

8 (3) if the actor requested emergency medical
9 assistance in response to the possible overdose of another person:

10 (A) remained on the scene until the medical
11 assistance arrived; and

12 (B) cooperated with medical assistance and law
13 enforcement personnel.

14 SECTION 3. Section 481.116, Health and Safety Code, is
15 amended by adding Subsection (f) to read as follows:

16 (f) It is a defense to prosecution for an offense punishable
17 under Subsection (b) that the actor:

18 (1) requested emergency medical assistance in
19 response to the possible overdose of the actor or another person;

20 (2) was the first person to make a request for medical
21 assistance under Subdivision (1); and

22 (3) if the actor requested emergency medical
23 assistance in response to the possible overdose of another person:

24 (A) remained on the scene until the medical
25 assistance arrived; and

26 (B) cooperated with medical assistance and law
27 enforcement personnel.

1 SECTION 4. Section 481.1161, Health and Safety Code, is
2 amended by adding Subsection (c) to read as follows:

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

5 (1) requested emergency medical assistance in
6 response to the possible overdose of the actor or another person;

7 (2) was the first person to make a request for medical
8 assistance under Subdivision (1); and

9 (3) if the actor requested emergency medical
10 assistance in response to the possible overdose of another person:

11 (A) remained on the scene until the medical
12 assistance arrived; and

13 (B) cooperated with medical assistance and law
14 enforcement personnel.

15 SECTION 5. Section 481.117, Health and Safety Code, is
16 amended by adding Subsection (f) to read as follows:

17 (f) It is a defense to prosecution for an offense punishable
18 under Subsection (b) that the actor:

19 (1) requested emergency medical assistance in
20 response to the possible overdose of the actor or another person;

21 (2) was the first person to make a request for medical
22 assistance under Subdivision (1); and

23 (3) if the actor requested emergency medical
24 assistance in response to the possible overdose of another person:

25 (A) remained on the scene until the medical
26 assistance arrived; and

27 (B) cooperated with medical assistance and law

1 enforcement personnel.

2 SECTION 6. Section 481.118, Health and Safety Code, is
3 amended by adding Subsection (f) to read as follows:

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

6 (1) requested emergency medical assistance in
7 response to the possible overdose of the actor or another person;

8 (2) was the first person to make a request for medical
9 assistance under Subdivision (1); and

10 (3) if the actor requested emergency medical
11 assistance in response to the possible overdose of another person:

12 (A) remained on the scene until the medical
13 assistance arrived; and

14 (B) cooperated with medical assistance and law
15 enforcement personnel.

16 SECTION 7. Section 481.119, Health and Safety Code, is
17 amended by adding Subsection (c) to read as follows:

18 (c) It is a defense to prosecution for an offense under
19 Subsection (b) that the actor:

20 (1) requested emergency medical assistance in
21 response to the possible overdose of the actor or another person;

22 (2) was the first person to make a request for medical
23 assistance under Subdivision (1); and

24 (3) if the actor requested emergency medical
25 assistance in response to the possible overdose of another person:

26 (A) remained on the scene until the medical
27 assistance arrived; and

1 (B) cooperated with medical assistance and law
2 enforcement personnel.

3 SECTION 8. Section 481.121, Health and Safety Code, is
4 amended by adding Subsection (c) to read as follows:

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

7 (1) requested emergency medical assistance in
8 response to the possible overdose of the actor or another person;

9 (2) was the first person to make a request for medical
10 assistance under Subdivision (1); and

11 (3) if the actor requested emergency medical
12 assistance in response to the possible overdose of another person:

13 (A) remained on the scene until the medical
14 assistance arrived; and

15 (B) cooperated with medical assistance and law
16 enforcement personnel.

17 SECTION 9. Section 481.125, Health and Safety Code, is
18 amended by adding Subsection (g) to read as follows:

19 (g) It is a defense to prosecution for an offense under
20 Subsection (a) that the actor:

21 (1) requested emergency medical assistance in
22 response to the possible overdose of the actor or another person;

23 (2) was the first person to make a request for medical
24 assistance under Subdivision (1); and

25 (3) if the actor requested emergency medical
26 assistance in response to the possible overdose of another person:

27 (A) remained on the scene until the medical

1 assistance arrived; and

2 (B) cooperated with medical assistance and law
3 enforcement personnel.

4 SECTION 10. Section 483.041, Health and Safety Code, is
5 amended by adding Subsection (e) to read as follows:

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

8 (1) requested emergency medical assistance in
9 response to the possible overdose of the actor or another person;

10 (2) was the first person to make a request for medical
11 assistance under Subdivision (1); and

12 (3) if the actor requested emergency medical
13 assistance in response to the possible overdose of another person:

14 (A) remained on the scene until the medical
15 assistance arrived; and

16 (B) cooperated with medical assistance and law
17 enforcement personnel.

18 SECTION 11. Section 485.031, Health and Safety Code, is
19 amended by adding Subsection (c) to read as follows:

20 (c) It is a defense to prosecution for an offense under
21 Subsection (a) that the actor:

22 (1) requested emergency medical assistance in
23 response to the possible overdose of the actor or another person;

24 (2) was the first person to make a request for medical
25 assistance under Subdivision (1); and

26 (3) if the actor requested emergency medical
27 assistance in response to the possible overdose of another person:

1 (A) remained on the scene until the medical
2 assistance arrived; and

3 (B) cooperated with medical assistance and law
4 enforcement personnel.

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

7 SUBCHAPTER E. OPIOID ANTAGONISTS

8 Sec. 483.101. DEFINITIONS. In this subchapter:

9 (1) "Emergency services personnel" includes
10 firefighters, police officers and other peace officers, emergency
11 medical services personnel as defined by Section 773.003, emergency
12 room personnel, and other individuals who, in the course and scope
13 of employment or as a volunteer, provide services for the benefit of
14 the general public during emergency situations.

15 (2) "Health care professional" means a person
16 authorized by law to prescribe an opioid antagonist.

17 (3) "Opioid antagonist" means any drug that binds to
18 opioid receptors and blocks or disinhibits the effects of opioids
19 acting on those receptors.

20 (4) "Opioid-related drug overdose" means a condition,
21 evidenced by symptoms such as extreme physical illness, decreased
22 level of consciousness, respiratory depression, or coma, that a
23 layperson would reasonably believe to be the result of the
24 consumption or use of an opioid.

25 Sec. 483.102. PRESCRIPTION OF OPIOID ANTAGONIST; STANDING
26 ORDER. (a) A health care professional may, directly or by standing
27 order, prescribe, dispense, or distribute an opioid antagonist to:

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

3 (2) a family member, friend, or other person in a
4 position to assist a person described by Subdivision (1).

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

8 (c) A health care professional who, acting with reasonable
9 care, prescribes or dispenses an opioid antagonist is not subject
10 to any criminal or civil liability or any professional disciplinary
11 action for:

12 (1) prescribing or dispensing the opioid antagonist;
13 or

14 (2) any outcome resulting from the eventual
15 administration of the opioid antagonist.

16 Sec. 483.103. DISTRIBUTION OF OPIOID ANTAGONIST; STANDING
17 ORDER. A person or organization acting under a standing order
18 issued by a health care professional may store an opioid antagonist
19 and may dispense an opioid antagonist, provided the person or
20 organization does not request or receive compensation for storage
21 or dispensation.

22 Sec. 483.104. POSSESSION OF OPIOID ANTAGONIST. Any person
23 may possess an opioid antagonist, regardless of whether the person
24 holds a prescription for the opioid antagonist.

25 Sec. 483.105. DUTY OF PHARMACISTS. A pharmacist that
26 provides an opioid antagonist to a person shall offer counseling to
27 the person about:

- 1 (1) overdose recognition and prevention; and
- 2 (2) the administration of opioid antagonists, patient
- 3 responses, and potential side effects.

4 Sec. 483.106. ADMINISTRATION OF OPIOID ANTAGONIST. (a) A
5 person who, acting with reasonable care, administers an opioid
6 antagonist to another person whom the person believes is suffering
7 an opioid-related drug overdose is not subject to criminal
8 prosecution, sanction under any professional licensing statute, or
9 civil liability, for an act or omission resulting from the
10 administration of the opioid antagonist.

11 (b) Emergency services personnel are authorized to
12 administer an opioid antagonist to a person who appears to be
13 suffering an opioid-related drug overdose, as clinically
14 indicated.

15 (c) This section would not cover liability for emergency
16 services personnel or medical professionals who fail to prescribe
17 or provide opioid antagonist.

18 Sec. 483.107 OPIOID ANTAGONIST TRAINING. A person, state
19 agency, or political subdivision of the state that provides opioid
20 antagonists to emergency services personnel for use in the regular
21 course of providing emergency services shall provide those
22 personnel with a course of instruction about:

- 23 1) Overdose recognition and prevention; and
- 24 2) The administration of opioid antagonists, patient
- 25 responses, and potential side effects.

26 Sec 483.108 GRANTS. The Health and Human Services
27 Commission and the criminal justice division of the governor's

1 office may issue grants for:

- 2 1) Drug overdose prevention;
- 3 2) Recognition and response education for
- 4 individuals, family members, and emergency services personnel; and
- 5 3) Opioid antagonist prescription or distribution
- 6 projects

7 Sec. 483.109. CONFLICT OF LAW. To the extent of a conflict

8 between this subchapter and another law, this subchapter controls.

9 SECTION 13. The change in law made by this Act relating to

10 the defense for prosecution for certain offences applies only to an

11 offense committed on or after the effective date of this Act. An

12 offense committed before the effective date of this Act is governed

13 by the law in effect on the date the offense was committed, and the

14 former law is continued in effect for that purpose. For purposes of

15 this section, an offense was committed before the effective date of

16 this Act if any element of the offense occurred before that date.

17 SECTION 14. (a) The change in law made by this Act relating

18 to conduct that is grounds for imposition of a disciplinary

19 sanction applies to:

20 (1) conduct that occurs before September 1, 2015, for

21 which a sanction is imposed on or after that date; or

22 (2) conduct that occurs on or after September 1, 2015.

23 (b) Conduct that occurs before September 1, 2015, to which

24 Subsection (a)(1) of this section does not apply is governed by the

25 law in effect on the date the conduct occurred, and the former law

26 is continued in effect for that purpose.

27 SECTION 15. (a) The change in law made by this Act relating

1 to conduct that is the basis for civil liability applies to:

2 (1) conduct that occurs before September 1, 2015, for
3 which judgment is entered on or after that date; or

4 (2) conduct that occurs on or after September 1, 2015.

5 (b) Conduct that occurs before September 1, 2015, to which
6 Subsection (a)(1) of this section does not apply is governed by the
7 law in effect on the date the conduct occurred, and the former law
8 is continued in effect for that purpose.

9 SECTION 16. (a) The change in law made by this Act relating
10 to conduct that constitutes a criminal offense applies to:

11 (1) an offense committed before September 1, 2015, for
12 which judgment is entered on or after that date; or

13 (2) an offense committed on or after September 1,
14 2015.

15 (b) For purposes of this section, an offense is committed
16 before September 1, 2015, if any element of the offense occurs
17 before that date.

18 (c) An offense committed before September 1, 2015, to which
19 Subsection (a)(1) of this section does not apply is governed by the
20 law in effect on the date the offense was committed, and the former
21 law is continued in effect for that purpose.

22 SECTION 17. This bill takes effect September 1, 2015.