

By: Guillen, Bernal, et al.

H.B. No. 73

A BILL TO BE ENTITLED

1 AN ACT
2 relating to a defense to prosecution for certain offenses involving
3 possession of small amounts of controlled substances and other
4 prohibited drugs, substances, or paraphernalia for defendants
5 seeking assistance for a suspected overdose.

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

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

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

11 (1) was the first person to request emergency medical
12 assistance in response to the possible overdose of another person
13 and:

14 (A) made the request for medical assistance
15 during an ongoing medical emergency;

16 (B) remained on the scene until the medical
17 assistance arrived; and

18 (C) cooperated with medical assistance and law
19 enforcement personnel; or

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

23 (h) The defense to prosecution provided by Subsection (g) is
24 not available if, at the time the request for emergency medical

1 assistance was made, a peace officer was in the process of arresting
2 the actor or executing a search warrant describing the actor or the
3 place from which the request for medical assistance was made.

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

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

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

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

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

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

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

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

25 (d) The defense to prosecution provided by Subsection (c) is
26 not available if, at the time the request for emergency medical
27 assistance was made, a peace officer was in the process of arresting

1 the actor or executing a search warrant describing the actor or the
2 place from which the request for medical assistance was made.

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

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

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

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

15 (A) made the request for medical assistance
16 during an ongoing medical emergency;

17 (B) remained on the scene until the medical
18 assistance arrived; and

19 (C) cooperated with medical assistance and law
20 enforcement personnel; or

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

24 (g) The defense to prosecution provided by Subsection (f) is
25 not available if, at the time the request for emergency medical
26 assistance was made, a peace officer was in the process of arresting
27 the actor or executing a search warrant describing the actor or the

1 place from which the request for medical assistance was made.

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

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

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

11 (1) was the first person to request emergency medical
12 assistance in response to the possible overdose of another person
13 and:

14 (A) made the request for medical assistance
15 during an ongoing medical emergency;

16 (B) remained on the scene until the medical
17 assistance arrived; and

18 (C) cooperated with medical assistance and law
19 enforcement personnel; or

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

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

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

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

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

10 (1) was the first person to request emergency medical
11 assistance in response to the possible overdose of another person
12 and:

13 (A) made the request for medical assistance
14 during an ongoing medical emergency;

15 (B) remained on the scene until the medical
16 assistance arrived; and

17 (C) cooperated with medical assistance and law
18 enforcement personnel; or

19 (2) was the victim of a possible overdose for which
20 emergency medical assistance was requested, by the actor or by
21 another person, during an ongoing medical emergency.

22 (g) The defense to prosecution provided by Subsection (f) is
23 not available if, at the time the request for emergency medical
24 assistance was made, a peace officer was in the process of arresting
25 the actor or executing a search warrant describing the actor or the
26 place from which the request for medical assistance was made.

27 (h) The defense to prosecution provided by Subsection (f)

1 does not preclude the admission of evidence obtained by law
2 enforcement resulting from the request for emergency medical
3 assistance if that evidence pertains to an offense for which the
4 defense described by Subsection (f) is not available.

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

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

9 (1) was the first person to request emergency medical
10 assistance in response to the possible overdose of another person
11 and:

12 (A) made the request for medical assistance
13 during an ongoing medical emergency;

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

16 (C) cooperated with medical assistance and law
17 enforcement personnel; or

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

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

26 (h) The defense to prosecution provided by Subsection (f)
27 does not preclude the admission of evidence obtained by law

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

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

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

8 (1) was the first person to request emergency medical
9 assistance in response to the possible overdose of another person
10 and:

11 (A) made the request for medical assistance
12 during an ongoing medical emergency;

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

15 (C) cooperated with medical assistance and law
16 enforcement personnel; or

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

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

25 (e) The defense to prosecution provided by Subsection (c)
26 does not preclude the admission of evidence obtained by law
27 enforcement resulting from the request for emergency medical

1 assistance if that evidence pertains to an offense for which the
2 defense described by Subsection (c) is not available.

3 SECTION 8. Section 481.121, Health and Safety Code, is
4 amended by adding Subsections (c), (d), and (e) 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) was the first person to request emergency medical
8 assistance in response to the possible overdose of another person
9 and:

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

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

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

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

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

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

1 defense described by Subsection (c) is not available.

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

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

6 (1) was the first person to request emergency medical
7 assistance in response to the possible overdose of another person
8 and:

9 (A) made the request for medical assistance
10 during an ongoing medical emergency;

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

13 (C) cooperated with medical assistance and law
14 enforcement personnel; or

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

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

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

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

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

5 (1) was the first person to request emergency medical
6 assistance in response to the possible overdose of another person
7 and:

8 (A) made the request for medical assistance
9 during an ongoing medical emergency;

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

12 (C) cooperated with medical assistance and law
13 enforcement personnel; or

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

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

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

27 SECTION 11. Section 485.031, Health and Safety Code, is

1 amended by adding Subsections (c), (d), and (e) to read as follows:

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

4 (1) was the first person to request emergency medical
5 assistance in response to the possible overdose of another person
6 and:

7 (A) made the request for medical assistance
8 during an ongoing medical emergency;

9 (B) remained on the scene until the medical
10 assistance arrived; and

11 (C) cooperated with medical assistance and law
12 enforcement personnel; or

13 (2) was the victim of a possible overdose for which
14 emergency medical assistance was requested, by the actor or by
15 another person, during an ongoing medical emergency.

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

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

26 SECTION 12. The change in law made by this Act applies only
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is
2 governed by the law in effect on the date the offense was committed,
3 and the former law is continued in effect for that purpose. For
4 purposes of this section, an offense was committed before the
5 effective date of this Act if any element of the offense occurred
6 before that date.

7 SECTION 13. This Act takes effect September 1, 2017.