

By: Klick

H.B. No. 4173

A BILL TO BE ENTITLED

AN ACT

relating to state overdose prevention and control efforts and the defense to prosecution for certain offenses involving possession of small amounts of controlled substances, marihuana, dangerous drugs, or abusable volatile chemicals, or possession of drug paraphernalia for defendants seeking assistance for a suspected overdose.

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

ARTICLE 1. OVERDOSE PREVENTION AND CONTROL

SECTION 1.01. Subtitle C, Title 6, Health and Safety Code, is amended by adding Chapter 490 to read as follows:

CHAPTER 490. OVERDOSE PREVENTION AND CONTROL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 490.001. DEFINITIONS. In this subchapter:

(1) "Application programming interface" means a set of tools, definitions, and protocols for building and integrating application software and service with different software programs.

(2) "Controlled substance" has the meaning assigned by Section [481.002](#).

(3) "Department" means the Department of State Health Services.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Information technology platform" means the

Overdose Detection Mapping Application Program or a similar system that tracks overdose information for public safety purposes.

(6) "Opioid antagonist" has the meaning assigned by Section 483.101.

SUBCHAPTER B. DATA COLLECTION AND REPORTING

Sec. 490.051. OVERDOSE MAPPING. (a) The department shall develop an overdose mapping and response system in which a central repository containing information about overdose incidents is established and maintained using the information technology platform.

(b) The department shall design the overdose mapping and response system to avoid data entry duplication wherever possible. The system may include one or more application programming interfaces to transfer information about overdose incidents that are reported to active databases in this state to the information technology platform.

Sec. 490.052. OVERDOSE REPORTING. (a) A law enforcement officer who responds to an overdose incident shall report information about the incident to the information technology platform as soon as possible but not later than 24 hours after the incident.

(b) A person who administers emergency services and responds to an overdose incident or transports a person experiencing a confirmed or suspected overdose to a medical facility shall report information about the incident to the information technology platform as soon as possible but not later than 24 hours after the incident.

1 (c) When a coroner, medical examiner, or other individual
2 responsible for determining the cause of death determines that the
3 death of a person was caused by an overdose, the coroner, medical
4 examiner, or other individual shall report information about the
5 overdose incident to the information technology platform, or give
6 the information to a person authorized to report it, as soon as
7 possible but not later than 24 hours after the determination of the
8 cause of death.

9 (d) A report under this section must include:
10 (1) the date and time of the overdose incident;
11 (2) the approximate location of the overdose incident;
12 (3) whether an opioid antagonist was administered, and
13 if so, the number of doses and the type of delivery;
14 (4) whether the overdose was fatal or nonfatal;
15 (5) the sex and approximate age of the person
16 suffering the overdose incident; and
17 (6) the suspected substance involved.

18 (e) A person who reports information about an overdose
19 incident under this subchapter in good faith is not subject to civil
20 or criminal liability for making the report unless the act
21 constitutes wilful or wanton negligence.

22 Sec. 490.053. OVERDOSE SPIKE RESPONSE PLANS. (a) The
23 department shall:

24 (1) identify parameters for identifying an overdose
25 spike throughout the state; and

26 (2) create overdose spike response plans that
27 coordinate the response of public health, public safety, and

emergency management agencies and officials, first responders, community organizations, health care providers, and the media with the goal of preventing and reducing the harm caused by overdose spikes.

(b) In developing overdose spike response plans, the department may:

(1) establish public safety, public health, and behavioral health partnerships within the state;

(2) assist local communities in identifying additional ways to use information about overdose incidents to deploy public health, behavioral health, and public safety responses to address specific geographic areas or high-risk populations;

(3) assist in the distribution of opioid antagonists throughout the state; and

(4) assist in implementing strategies to reduce drug supply and demand, especially in high-risk areas and where there are high volumes of high-risk populations.

Sec. 490.054. REPORT BY DEPARTMENT. Not later than September 1 of each year, the department shall submit an annual report to the legislature regarding the overdose mapping and response system under this subchapter. The report must include:

(1) the number of overdose incidents reported and the approximate locations where the overdose incidents occurred, including any clusters of overdose incidents;

(2) the entities or individuals reporting information about overdose incidents;

1 (3) the percentage of overdose incidents involving
2 fatal overdoses; and

3 (4) the manner in which the reported information about
4 overdose incidents was used for public health, behavioral health,
5 and public safety responses, the outcomes of those responses, and
6 the impact on affected communities.

7 Sec. 490.055. LIMITATIONS ON DATA USE. (a) Information
8 about overdose incidents reported to the overdose mapping and
9 response system by a person other than a law enforcement officer may
10 not be used for a criminal investigation or prosecution of any
11 person.

12 (b) Information about overdose incidents reported to, and
13 accessible through, the overdose mapping and response system is
14 confidential and is not subject to disclosure under Chapter 552,
15 Government Code.

16 SUBCHAPTER C. STATEWIDE OVERDOSE PREVENTION AND EDUCATION

17 Sec. 490.101. FENTANYL ADDICTION AND OVERDOSE PREVENTION
18 AND EDUCATION CAMPAIGN. (a) The department shall develop,
19 implement, and maintain an ongoing statewide prevention and
20 education campaign to address the fentanyl education needs in this
21 state.

22 (b) The campaign must include:

23 (1) information for the general public about fentanyl;
24 (2) precautionary measures to avoid risks and prevent
25 harm caused by fentanyl;

26 (3) resources for addiction treatment and services;
27 and

1 (4) information on laws regarding the manufacture,
2 delivery, possession, and use of fentanyl, including criminal
3 penalties and immunities for reporting an overdose.

4 (c) The department may use television advertisements, radio
5 broadcasts, print media, or any other media or digital strategies
6 necessary and appropriate to reach the target audience of the
7 campaign.

8 (c-1) The department shall provide at least five regional
9 training sessions during the first year of operation of the
10 campaign for community partners to implement youth health
11 development strategies. This subsection expires December 1, 2025.

12 (d) The department shall develop, implement, and maintain
13 an Internet website to serve as the state resource for the most
14 accurate and timely information regarding fentanyl. The website
15 must include the information described by Subsection (b).

16 Sec. 490.102. STATEWIDE SUBSTANCE ABUSE PREVENTION
17 COLLABORATIVE. (a) The department shall establish a Substance
18 Abuse Prevention Collaborative, composed of the number and
19 composition of members as determined by the executive commissioner
20 to be appropriate. The executive commissioner shall appoint members
21 from:

22 (1) institutions of higher education;
23 (2) nonprofit agencies;
24 (3) state agencies; and
25 (4) other stakeholders as determined by the executive
26 commissioner.

27 (b) The Substance Abuse Prevention Collaborative shall:

1 (1) gather feedback from stakeholders concerning
2 evidence-based overdose prevention practices;

3 (2) work with prevention specialists to provide and
4 support training to strengthen the state's prevention workforce;

5 (3) coordinate with and assist state agencies and
6 communities to strengthen prevention infrastructure;

7 (4) implement a statewide strategic plan for
8 prevention of substance use disorders;

9 (5) advance the use of tested and effective prevention
10 programs and practices through education, outreach, advocacy, and
11 technical assistance;

12 (6) direct efforts to raise public awareness of the
13 cost savings of prevention measures;

14 (7) provide direct training and technical assistance
15 to communities regarding the selection, implementation, and
16 sustainment of tested and effective prevention programs;

17 (8) provide recommendations to state agencies and
18 communities regarding innovative prevention programs and
19 practices;

20 (9) support funding efforts to align funding and
21 services and communicate with communities about funding
22 strategies;

23 (10) work with key state and community stakeholders to
24 establish minimum standards for prevention programs; and

25 (11) not later than September 1 of each year, submit an
26 annual report to the legislature of the collaborative's progress.

27 Sec. 490.103. STATE OVERDOSE PREVENTION GRANT PROGRAM. (a)

1 The department shall develop and implement a grant program to
2 prevent overdose deaths and reduce health risks associated with
3 substance abuse.

4 (b) To be eligible to receive a grant, an entity must be:

5 (1) a nonprofit organization that is in good standing
6 and registered with the Internal Revenue Service and the secretary
7 of state's office;

8 (2) a federally qualified health center or rural
9 health clinic, as defined by 42 U.S.C. Section 1396d(1); or

10 (3) a law enforcement agency.

11 (c) An eligible entity may submit an application on behalf
12 of a group of eligible entities, and apportion grant money
13 accordingly, to foster community collaboration and collective
14 impact.

15 (d) The department shall:

16 (1) develop additional eligibility criteria for grant
17 funding;

18 (2) review applications for funding; and

19 (3) award funding based on the developed criteria.

20 ARTICLE 2. DEFENSES TO CERTAIN CONTROLLED SUBSTANCE POSSESSION
21 OFFENSES

22 SECTION 2.01. Section 481.115(h), Health and Safety Code,
23 is amended to read as follows:

24 (h) The defense to prosecution provided by Subsection (g) is
25 not available if[+]

26 [~~1~~] at the time the request for emergency medical
27 assistance was made:

1 (1) ~~[(A)]~~ a peace officer was in the process of
2 arresting the actor or executing a search warrant describing the
3 actor or the place from which the request for medical assistance was
4 made; or

5 (2) ~~[(B)]~~ the actor is committing another offense,
6 other than an offense punishable under Section 481.1151(b)(1),
7 481.116(b), 481.1161(b)(1) or (2), 481.117(b), 481.118(b), or
8 481.121(b)(1) or (2), or an offense under Section 481.119(b),
9 481.125(a), 483.041(a), or 485.031(a) [+

10 ~~[(2) the actor has been previously convicted of or~~
11 ~~placed on deferred adjudication community supervision for an~~
12 ~~offense under this chapter or Chapter 483 or 485,~~

13 ~~[(3) the actor was acquitted in a previous proceeding~~
14 ~~in which the actor successfully established the defense under that~~
15 ~~subsection or Section 481.1151(c), 481.116(f), 481.1161(c),~~
16 ~~481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),~~
17 ~~483.041(c), or 485.031(c), or~~

18 ~~[(4) at any time during the 18-month period preceding~~
19 ~~the date of the commission of the instant offense, the actor~~
20 ~~requested emergency medical assistance in response to the possible~~
21 ~~overdose of the actor or another person].~~

22 SECTION 2.02. Section 481.1151(d), Health and Safety Code,
23 is amended to read as follows:

24 (d) The defense to prosecution provided by Subsection (c) is
25 not available if [+

26 ~~[(1)]~~ at the time the request for emergency medical
27 assistance was made:

1 (1) ~~[(A)]~~ a peace officer was in the process of
2 arresting the actor or executing a search warrant describing the
3 actor or the place from which the request for medical assistance was
4 made; or

5 (2) ~~[(B)]~~ the actor is committing another offense,
6 other than an offense punishable under Section 481.115(b),
7 481.116(b), 481.1161(b)(1) or (2), 481.117(b), 481.118(b), or
8 481.121(b)(1) or (2), or an offense under Section 481.119(b),
9 481.125(a), 483.041(a), or 485.031(a) [+

10 ~~[(2) the actor has been previously convicted of or~~
11 ~~placed on deferred adjudication community supervision for an~~
12 ~~offense under this chapter or Chapter 483 or 485,~~

13 ~~[(3) the actor was acquitted in a previous proceeding~~
14 ~~in which the actor successfully established the defense under that~~
15 ~~subsection or Section 481.115(g), 481.116(f), 481.1161(c),~~
16 ~~481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),~~
17 ~~483.041(c), or 485.031(c), or~~

18 ~~[(4) at any time during the 18-month period preceding~~
19 ~~the date of the commission of the instant offense, the actor~~
20 ~~requested emergency medical assistance in response to the possible~~
21 ~~overdose of the actor or another person].~~

22 SECTION 2.03. Section 481.116(g), Health and Safety Code,
23 is amended to read as follows:

24 (g) The defense to prosecution provided by Subsection (f) is
25 not available if [+

26 ~~[(1)]~~ at the time the request for emergency medical
27 assistance was made:

1 (1) ~~[(A)]~~ a peace officer was in the process of
2 arresting the actor or executing a search warrant describing the
3 actor or the place from which the request for medical assistance was
4 made; or

5 (2) ~~[(B)]~~ the actor is committing another offense,
6 other than an offense punishable under Section 481.115(b),
7 481.1151(b)(1), 481.1161(b)(1) or (2), 481.117(b), 481.118(b), or
8 481.121(b)(1) or (2), or an offense under Section 481.119(b),
9 481.125(a), 483.041(a), or 485.031(a) [+

10 ~~[(2) the actor has been previously convicted of or~~
11 ~~placed on deferred adjudication community supervision for an~~
12 ~~offense under this chapter or Chapter 483 or 485,~~

13 ~~[(3) the actor was acquitted in a previous proceeding~~
14 ~~in which the actor successfully established the defense under that~~
15 ~~subsection or Section 481.115(g), 481.1151(c), 481.1161(c),~~
16 ~~481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),~~
17 ~~483.041(c), or 485.031(c), or~~

18 ~~[(4) at any time during the 18-month period preceding~~
19 ~~the date of the commission of the instant offense, the actor~~
20 ~~requested emergency medical assistance in response to the possible~~
21 ~~overdose of the actor or another person].~~

22 SECTION 2.04. Section 481.1161(d), Health and Safety Code,
23 is amended to read as follows:

24 (d) The defense to prosecution provided by Subsection (c) is
25 not available if [+

26 ~~[(1)]~~ at the time the request for emergency medical
27 assistance was made:

1 (1) ~~[(A)]~~ a peace officer was in the process of
2 arresting the actor or executing a search warrant describing the
3 actor or the place from which the request for medical assistance was
4 made; or

5 (2) ~~[(B)]~~ the actor is committing another offense,
6 other than an offense punishable under Section 481.115(b),
7 481.1151(b)(1), 481.116(b), 481.117(b), 481.118(b), or
8 481.121(b)(1) or (2), or an offense under Section 481.119(b),
9 481.125(a), 483.041(a), or 485.031(a) [+

10 ~~[(2) the actor has been previously convicted of or~~
11 ~~placed on deferred adjudication community supervision for an~~
12 ~~offense under this chapter or Chapter 483 or 485,~~

13 ~~[(3) the actor was acquitted in a previous proceeding~~
14 ~~in which the actor successfully established the defense under that~~
15 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
16 ~~481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),~~
17 ~~483.041(c), or 485.031(c), or~~

18 ~~[(4) at any time during the 18-month period preceding~~
19 ~~the date of the commission of the instant offense, the actor~~
20 ~~requested emergency medical assistance in response to the possible~~
21 ~~overdose of the actor or another person].~~

22 SECTION 2.05. Section 481.117(g), Health and Safety Code,
23 is amended to read as follows:

24 (g) The defense to prosecution provided by Subsection (f) is
25 not available if [+

26 ~~[(1)]~~ at the time the request for emergency medical
27 assistance was made:

1 (1) ~~[(A)]~~ a peace officer was in the process of
2 arresting the actor or executing a search warrant describing the
3 actor or the place from which the request for medical assistance was
4 made; or

5 (2) ~~[(B)]~~ the actor is committing another offense,
6 other than an offense punishable under Section 481.115(b),
7 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.118(b), or
8 481.121(b)(1) or (2), or an offense under Section 481.119(b),
9 481.125(a), 483.041(a), or 485.031(a) [+

10 ~~[(2) the actor has been previously convicted of or~~
11 ~~placed on deferred adjudication community supervision for an~~
12 ~~offense under this chapter or Chapter 483 or 485,~~

13 ~~[(3) the actor was acquitted in a previous proceeding~~
14 ~~in which the actor successfully established the defense under that~~
15 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
16 ~~481.1161(c), 481.118(f), 481.119(c), 481.121(c), 481.125(g),~~
17 ~~483.041(c), or 485.031(c), or~~

18 ~~[(4) at any time during the 18-month period preceding~~
19 ~~the date of the commission of the instant offense, the actor~~
20 ~~requested emergency medical assistance in response to the possible~~
21 ~~overdose of the actor or another person].~~

22 SECTION 2.06. Section 481.118(g), Health and Safety Code,
23 is amended to read as follows:

24 (g) The defense to prosecution provided by Subsection (f) is
25 not available if [+

26 ~~[(1)]~~ at the time the request for emergency medical
27 assistance was made:

1 (1) ~~[(A)]~~ a peace officer was in the process of
2 arresting the actor or executing a search warrant describing the
3 actor or the place from which the request for medical assistance was
4 made; or

5 (2) ~~[(B)]~~ the actor is committing another offense,
6 other than an offense punishable under Section 481.115(b),
7 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b), or
8 481.121(b)(1) or (2), or an offense under Section 481.119(b),
9 481.125(a), 483.041(a), or 485.031(a) [+

10 ~~[(2) the actor has been previously convicted of or~~
11 ~~placed on deferred adjudication community supervision for an~~
12 ~~offense under this chapter or Chapter 483 or 485,~~

13 ~~[(3) the actor was acquitted in a previous proceeding~~
14 ~~in which the actor successfully established the defense under that~~
15 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
16 ~~481.1161(c), 481.117(f), 481.119(c), 481.121(c), 481.125(g),~~
17 ~~483.041(c), or 485.031(c), or~~

18 ~~[(4) at any time during the 18-month period preceding~~
19 ~~the date of the commission of the instant offense, the actor~~
20 ~~requested emergency medical assistance in response to the possible~~
21 ~~overdose of the actor or another person].~~

22 SECTION 2.07. Section 481.119(d), Health and Safety Code,
23 is amended to read as follows:

24 (d) The defense to prosecution provided by Subsection (c) is
25 not available if [+

26 ~~[(1)]~~ at the time the request for emergency medical
27 assistance was made:

1 (1) ~~[(A)]~~ a peace officer was in the process of
2 arresting the actor or executing a search warrant describing the
3 actor or the place from which the request for medical assistance was
4 made; or

5 (2) ~~[(B)]~~ the actor is committing another offense,
6 other than an offense punishable under Section 481.115(b),
7 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
8 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
9 481.125(a), 483.041(a), or 485.031(a) [+

10 ~~[(2) the actor has been previously convicted of or~~
11 ~~placed on deferred adjudication community supervision for an~~
12 ~~offense under this chapter or Chapter 483 or 485,~~

13 ~~[(3) the actor was acquitted in a previous proceeding~~
14 ~~in which the actor successfully established the defense under that~~
15 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
16 ~~481.1161(c), 481.117(f), 481.118(f), 481.121(c), 481.125(g),~~
17 ~~483.041(c), or 485.031(c), or~~

18 ~~[(4) at any time during the 18-month period preceding~~
19 ~~the date of the commission of the instant offense, the actor~~
20 ~~requested emergency medical assistance in response to the possible~~
21 ~~overdose of the actor or another person].~~

22 SECTION 2.08. Section 481.121(d), Health and Safety Code,
23 is amended to read as follows:

24 (d) The defense to prosecution provided by Subsection (c) is
25 not available if [+

26 ~~[(1)]~~ at the time the request for emergency medical
27 assistance was made:

1 (1) ~~[(A)]~~ a peace officer was in the process of
2 arresting the actor or executing a search warrant describing the
3 actor or the place from which the request for medical assistance was
4 made; or

5 (2) ~~[(B)]~~ the actor is committing another offense,
6 other than an offense punishable under Section 481.115(b),
7 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b), or
8 481.118(b), or an offense under Section 481.119(b), 481.125(a),
9 483.041(a), or 485.031(a) [+

10 ~~[(2) the actor has been previously convicted of or~~
11 ~~placed on deferred adjudication community supervision for an~~
12 ~~offense under this chapter or Chapter 483 or 485,~~

13 ~~[(3) the actor was acquitted in a previous proceeding~~
14 ~~in which the actor successfully established the defense under that~~
15 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
16 ~~481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.125(g),~~
17 ~~483.041(c), or 485.031(c), or~~

18 ~~[(4) at any time during the 18-month period preceding~~
19 ~~the date of the commission of the instant offense, the actor~~
20 ~~requested emergency medical assistance in response to the possible~~
21 ~~overdose of the actor or another person].~~

22 SECTION 2.09. Section 481.125(h), Health and Safety Code,
23 is amended to read as follows:

24 (h) The defense to prosecution provided by Subsection (g) is
25 not available if [+

26 ~~[(1)]~~ at the time the request for emergency medical
27 assistance was made:

1 (1) ~~[(A)]~~ a peace officer was in the process of
2 arresting the actor or executing a search warrant describing the
3 actor or the place from which the request for medical assistance was
4 made; or

5 (2) ~~[(B)]~~ the actor is committing another offense,
6 other than an offense punishable under Section 481.115(b),
7 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
8 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
9 481.119(b), 483.041(a), or 485.031(a) [+

10 ~~[(2) the actor has been previously convicted of or~~
11 ~~placed on deferred adjudication community supervision for an~~
12 ~~offense under this chapter or Chapter 483 or 485,~~

13 ~~[(3) the actor was acquitted in a previous proceeding~~
14 ~~in which the actor successfully established the defense under that~~
15 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
16 ~~481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),~~
17 ~~483.041(c), or 485.031(c), or~~

18 ~~[(4) at any time during the 18-month period preceding~~
19 ~~the date of the commission of the instant offense, the actor~~
20 ~~requested emergency medical assistance in response to the possible~~
21 ~~overdose of the actor or another person].~~

22 SECTION 2.10. Section 483.041(f), Health and Safety Code,
23 is amended to read as follows:

24 (f) The defense to prosecution provided by Subsection (e) is
25 not available if [+

26 ~~[(1)]~~ at the time the request for emergency medical
27 assistance was made:

1 (1) ~~[(A)]~~ a peace officer was in the process of
2 arresting the actor or executing a search warrant describing the
3 actor or the place from which the request for medical assistance was
4 made; or

5 (2) ~~[(B)]~~ the actor is committing another offense,
6 other than an offense punishable under Section 481.115(b),
7 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
8 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
9 481.119(b), 481.125(a), or 485.031(a) [+

10 ~~[(2) the actor has been previously convicted of or~~
11 ~~placed on deferred adjudication community supervision for an~~
12 ~~offense under this chapter or Chapter 481 or 485,~~

13 ~~[(3) the actor was acquitted in a previous proceeding~~
14 ~~in which the actor successfully established the defense under that~~
15 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
16 ~~481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),~~
17 ~~481.125(g), or 485.031(c), or~~

18 ~~[(4) at any time during the 18-month period preceding~~
19 ~~the date of the commission of the instant offense, the actor~~
20 ~~requested emergency medical assistance in response to the possible~~
21 ~~overdose of the actor or another person].~~

22 SECTION 2.11. Section 485.031(d), Health and Safety Code,
23 is amended to read as follows:

24 (d) The defense to prosecution provided by Subsection (c) is
25 not available if [+

26 ~~[(1)]~~ at the time the request for emergency medical
27 assistance was made:

1 (1) ~~[(A)]~~ a peace officer was in the process of
2 arresting the actor or executing a search warrant describing the
3 actor or the place from which the request for medical assistance was
4 made; or

5 (2) ~~[(B)]~~ the actor is committing another offense,
6 other than an offense punishable under Section 481.115(b),
7 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
8 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
9 481.119(b), 481.125(a), or 483.041(a) [+

10 ~~[(2) the actor has been previously convicted of or~~
11 ~~placed on deferred adjudication community supervision for an~~
12 ~~offense under this chapter or Chapter 481 or 483,~~

13 ~~[(3) the actor was acquitted in a previous proceeding~~
14 ~~in which the actor successfully established the defense under that~~
15 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
16 ~~481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),~~
17 ~~481.125(g), or 483.041(c), or~~

18 ~~[(4) at any time during the 18-month period preceding~~
19 ~~the date of the commission of the instant offense, the actor~~
20 ~~requested emergency medical assistance in response to the possible~~
21 ~~overdose of the actor or another person].~~

22 ARTICLE 3. STUDY ON FENTANYL

23 SECTION 3.01. (a) The Department of Public Safety, in
24 consultation with the Health and Human Services Commission, shall
25 conduct a study regarding the use of the Internet, including
26 retail, payment, and social media platforms, for the purpose of
27 distributing fentanyl, alpha-methylfentanyl, any other derivative

1 of fentanyl, synthetic opiates, and counterfeit prescription
2 drugs. The study must:

3 (1) examine the prevalence of the availability and
4 accessibility of fentanyl, alpha-methylfentanyl, any other
5 derivative of fentanyl, synthetic opiates, and counterfeit
6 prescription drugs through the Internet;

7 (2) identify Internet website policies and practices
8 intended to prevent the use of a website for distributing fentanyl,
9 alpha-methylfentanyl, any other derivative of fentanyl, synthetic
10 opiates, and counterfeit prescription drugs;

11 (3) identify laws implemented by other states or the
12 federal government intended to prevent the use of the Internet for
13 distributing fentanyl, alpha-methylfentanyl, any other derivative
14 of fentanyl, synthetic opiates, and counterfeit prescription
15 drugs; and

16 (4) examine any other relevant data, information, or
17 resource concerning the use of the Internet for distributing
18 fentanyl, alpha-methylfentanyl, any other derivative of fentanyl,
19 synthetic opiates, and counterfeit prescription drugs.

20 (b) Not later than September 1, 2024, the Department of
21 Public Safety shall report the results of the study conducted under
22 Subsection (a) of this section to the governor, the lieutenant
23 governor, the speaker of the house of representatives, and the
24 standing committees of the senate and the house of representatives
25 that have jurisdiction over drug trafficking and health care
26 issues. The report must include recommendations for legislation:

27 (1) to prevent the use of the Internet for

1 distributing fentanyl, alpha-methylfentanyl, any other derivative
2 of fentanyl, synthetic opiates, and counterfeit prescription
3 drugs;

4 (2) imposing criminal and civil liability for the use
5 of the Internet for distributing fentanyl, alpha-methylfentanyl,
6 any other derivative of fentanyl, synthetic opiates, and
7 counterfeit prescription drugs;

8 (3) creating consumer reporting mechanisms for
9 reporting to law enforcement the use of an Internet website or
10 online account for distributing fentanyl, alpha-methylfentanyl,
11 any other derivative of fentanyl, synthetic opiates, and
12 counterfeit prescription drugs; and

13 (4) implementing any other public policy changes
14 necessary to reduce or eliminate the use of the Internet for
15 distributing fentanyl, alpha-methylfentanyl, any other derivative
16 of fentanyl, synthetic opiates, and counterfeit prescription
17 drugs.

18 (c) This section expires January 1, 2025.

19 ARTICLE 4. TRANSITIONS; EFFECTIVE DATE

20 SECTION 4.01. (a) Not later than September 1, 2024, the
21 Department of State Health Services shall develop the overdose
22 mapping and response system as required by Section 490.051, Health
23 and Safety Code, as added by this Act.

24 (b) Not later than September 1, 2024, the Department of
25 State Health Services shall develop the overdose spike response
26 plans as required by Section 490.053, Health and Safety Code, as
27 added by this Act.

1 (c) Not later than September 1, 2024, the Department of
2 State Health Services shall develop and implement the Fentanyl
3 Addiction and Overdose Prevention and Education Campaign as
4 required by Section 490.101, Health and Safety Code, as added by
5 this Act.

6 (d) Not later than September 1, 2024, the executive
7 commissioner of the Health and Human Services Commission shall
8 appoint the members to the Substance Abuse Prevention Collaborative
9 as required by Section 490.102, Health and Safety Code, as added by
10 this Act.

11 (e) Not later than September 1, 2024, the Department of
12 State Health Services shall develop and implement the state
13 overdose prevention grant program as required by Section 490.103,
14 Health and Safety Code, as added by this Act.

15 SECTION 4.02. The changes in law made by this Act to
16 Chapters 481, 483, and 485, Health and Safety Code, apply only to an
17 offense committed on or after the effective date of this Act. An
18 offense committed before the effective date of this Act is governed
19 by the law in effect on the date the offense was committed, and the
20 former law is continued in effect for that purpose. For purposes of
21 this section, an offense was committed before the effective date of
22 this Act if any element of the offense occurred before that date.

23 SECTION 4.03. This Act takes effect September 1, 2023.