

By: Eckhardt

S.B. No. 1183

A BILL TO BE ENTITLED

AN ACT

relating to 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:

SECTION 1. Section 481.115(h), Health and Safety Code, is amended to read as follows:

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

~~(1)~~ at the time the request for emergency medical assistance was made:

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

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

~~(2) the actor has been previously convicted of or placed on deferred adjudication community supervision for an~~

1 ~~offense under this chapter or Chapter 483 or 485,~~

2 ~~[(3) the actor was acquitted in a previous proceeding~~
3 ~~in which the actor successfully established the defense under that~~
4 ~~subsection or Section 481.1151(c), 481.116(f), 481.1161(c),~~
5 ~~481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),~~
6 ~~483.041(c), or 485.031(c); or~~

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

11 SECTION 2. Section 481.1151(d), Health and Safety Code, is
12 amended to read as follows:

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

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

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

21 (2) ~~[(B)]~~ the actor is committing another offense,
22 other than an offense punishable under Section 481.115(b),
23 481.116(b), 481.1161(b)(1) or (2), 481.117(b), 481.118(b), or
24 481.121(b)(1) or (2), or an offense under Section 481.119(b),
25 481.125(a), 483.041(a), or 485.031(a)[+

26 ~~[(2) the actor has been previously convicted of or~~
27 ~~placed on deferred adjudication community supervision for an~~

1 ~~offense under this chapter or Chapter 483 or 485,~~

2 ~~[(3) the actor was acquitted in a previous proceeding~~
3 ~~in which the actor successfully established the defense under that~~
4 ~~subsection or Section 481.115(g), 481.116(f), 481.1161(c),~~
5 ~~481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),~~
6 ~~483.041(c), or 485.031(c); or~~

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

11 SECTION 3. Section 481.116(g), Health and Safety Code, is
12 amended to read as follows:

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

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

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

21 (2) ~~[(B)]~~ the actor is committing another offense,
22 other than an offense punishable under Section 481.115(b),
23 481.1151(b)(1), 481.1161(b)(1) or (2), 481.117(b), 481.118(b), or
24 481.121(b)(1) or (2), or an offense under Section 481.119(b),
25 481.125(a), 483.041(a), or 485.031(a)[+

26 ~~[(2) the actor has been previously convicted of or~~
27 ~~placed on deferred adjudication community supervision for an~~

1 ~~offense under this chapter or Chapter 483 or 485,~~

2 ~~[(3) the actor was acquitted in a previous proceeding~~
3 ~~in which the actor successfully established the defense under that~~
4 ~~subsection or Section 481.115(g), 481.1151(c), 481.1161(c),~~
5 ~~481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),~~
6 ~~483.041(c), or 485.031(c); or~~

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

11 SECTION 4. Section 481.1161(d), Health and Safety Code, is
12 amended to read as follows:

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

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

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

21 (2) ~~[(B)]~~ the actor is committing another offense,
22 other than an offense punishable under Section 481.115(b),
23 481.1151(b)(1), 481.116(b), 481.117(b), 481.118(b), or
24 481.121(b)(1) or (2), or an offense under Section 481.119(b),
25 481.125(a), 483.041(a), or 485.031(a)[+

26 ~~[(2) the actor has been previously convicted of or~~
27 ~~placed on deferred adjudication community supervision for an~~

1 ~~offense under this chapter or Chapter 483 or 485,~~

2 ~~[(3) the actor was acquitted in a previous proceeding~~
3 ~~in which the actor successfully established the defense under that~~
4 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
5 ~~481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),~~
6 ~~483.041(c), or 485.031(c); or~~

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

11 SECTION 5. Section 481.117(g), Health and Safety Code, is
12 amended to read as follows:

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

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

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

21 (2) ~~[(B)]~~ the actor is committing another offense,
22 other than an offense punishable under Section 481.115(b),
23 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.118(b), or
24 481.121(b)(1) or (2), or an offense under Section 481.119(b),
25 481.125(a), 483.041(a), or 485.031(a)[+

26 ~~[(2) the actor has been previously convicted of or~~
27 ~~placed on deferred adjudication community supervision for an~~

1 ~~offense under this chapter or Chapter 483 or 485,~~

2 ~~[(3) the actor was acquitted in a previous proceeding~~
3 ~~in which the actor successfully established the defense under that~~
4 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
5 ~~481.1161(c), 481.118(f), 481.119(c), 481.121(c), 481.125(g),~~
6 ~~483.041(c), or 485.031(c); or~~

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

11 SECTION 6. Section 481.118(g), Health and Safety Code, is
12 amended to read as follows:

13 (g) The defense to prosecution provided by Subsection (f) is
14 not available if[+]

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

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

21 (2) ~~[(B)]~~ the actor is committing another offense,
22 other than an offense punishable under Section 481.115(b),
23 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b), or
24 481.121(b)(1) or (2), or an offense under Section 481.119(b),
25 481.125(a), 483.041(a), or 485.031(a)[+]

26 ~~[(2) the actor has been previously convicted of or~~
27 ~~placed on deferred adjudication community supervision for an~~

1 ~~offense under this chapter or Chapter 483 or 485,~~

2 ~~[(3) the actor was acquitted in a previous proceeding~~
3 ~~in which the actor successfully established the defense under that~~
4 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
5 ~~481.1161(c), 481.117(f), 481.119(c), 481.121(c), 481.125(g),~~
6 ~~483.041(c), or 485.031(c); or~~

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

11 SECTION 7. Section 481.119(d), Health and Safety Code, is
12 amended to read as follows:

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

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

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

21 (2) ~~[(B)]~~ the actor is committing another offense,
22 other than an offense punishable under Section 481.115(b),
23 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
24 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
25 481.125(a), 483.041(a), or 485.031(a)[+

26 ~~[(2) the actor has been previously convicted of or~~
27 ~~placed on deferred adjudication community supervision for an~~

1 ~~offense under this chapter or Chapter 483 or 485,~~

2 ~~[(3) the actor was acquitted in a previous proceeding~~
3 ~~in which the actor successfully established the defense under that~~
4 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
5 ~~481.1161(c), 481.117(f), 481.118(f), 481.121(c), 481.125(g),~~
6 ~~483.041(c), or 485.031(c); or~~

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

11 SECTION 8. Section 481.121(d), Health and Safety Code, is
12 amended to read as follows:

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

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

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

21 (2) ~~[(B)]~~ the actor is committing another offense,
22 other than an offense punishable under Section 481.115(b),
23 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b), or
24 481.118(b), or an offense under Section 481.119(b), 481.125(a),
25 483.041(a), or 485.031(a) [+]

26 ~~[(2) the actor has been previously convicted of or~~
27 ~~placed on deferred adjudication community supervision for an~~

1 ~~offense under this chapter or Chapter 483 or 485,~~

2 ~~[(3) the actor was acquitted in a previous proceeding~~
3 ~~in which the actor successfully established the defense under that~~
4 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
5 ~~481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.125(g),~~
6 ~~483.041(c), or 485.031(c); or~~

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

11 SECTION 9. Section 481.125(h), Health and Safety Code, is
12 amended to read as follows:

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

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

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

21 (2) ~~[(B)]~~ the actor is committing another offense,
22 other than an offense punishable under Section 481.115(b),
23 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
24 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
25 481.119(b), 483.041(a), or 485.031(a)[+

26 ~~[(2) the actor has been previously convicted of or~~
27 ~~placed on deferred adjudication community supervision for an~~

1 ~~offense under this chapter or Chapter 483 or 485,~~

2 ~~[(3) the actor was acquitted in a previous proceeding~~
3 ~~in which the actor successfully established the defense under that~~
4 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
5 ~~481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),~~
6 ~~483.041(c), or 485.031(c); or~~

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

11 SECTION 10. Section 483.041(f), Health and Safety Code, is
12 amended to read as follows:

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

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

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

21 (2) ~~[(B)]~~ the actor is committing another offense,
22 other than an offense punishable under Section 481.115(b),
23 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
24 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
25 481.119(b), 481.125(a), or 485.031(a)[+

26 ~~[(2) the actor has been previously convicted of or~~
27 ~~placed on deferred adjudication community supervision for an~~

1 ~~offense under this chapter or Chapter 481 or 485,~~

2 ~~[(3) the actor was acquitted in a previous proceeding~~
3 ~~in which the actor successfully established the defense under that~~
4 ~~subsection or Section 481.115(g), 481.1151(c), 481.116(f),~~
5 ~~481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),~~
6 ~~481.125(g), or 485.031(c); or~~

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

11 SECTION 11. Section 485.031(d), Health and Safety Code, is
12 amended to read as follows:

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

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

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

21 (2) ~~[(B)]~~ the actor is committing another offense,
22 other than an offense punishable under Section 481.115(b),
23 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
24 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
25 481.119(b), 481.125(a), or 483.041(a)[+

26 ~~[(2) the actor has been previously convicted of or~~
27 ~~placed on deferred adjudication community supervision for an~~

~~offense under this chapter or Chapter 481 or 483,~~

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

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

SECTION 12. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 13. This Act takes effect September 1, 2023.