

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

—
S.P. 661 - L.D. 1862

An Act To Strengthen Maine's Good Samaritan Laws Concerning Drug-related Medical Assistance

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §1111-B, as amended by PL 2021, c. 299, Pt. C, §1 and c. 434, §8, is repealed and the following enacted in its place:

§1111-B. Immunity from arrest, prosecution and revocation and termination proceedings when assistance has been requested for suspected drug-related overdose

When a medical professional or law enforcement officer has been dispatched to the location of a medical emergency in response to a call for assistance for a suspected drug-related overdose, the following provisions apply to any protected person at the location when the medical professional or the law enforcement officer arrives. The immunity provisions of subsections 2 and 3 apply for the duration of the response to the medical emergency and end when the medical professional or law enforcement officer leaves the location of the medical emergency.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Excluded crime" means a crime that does not qualify for immunity as described under subsection 2 or 3. The following crimes are excluded crimes:

- (1) An offense against a person as described in chapter 9;
- (2) Sexual assault as described in chapter 11;
- (3) Sexual exploitation of a minor as described in chapter 12;
- (4) Kidnapping, criminal restraint and criminal forced labor as described in chapter 13;
- (5) Robbery as described in section 651;
- (6) Arson as described in section 802;
- (7) Aggravated sex trafficking as described in section 852;

- (8) Sex trafficking as described in section 853;
- (9) Aggravated attempted murder as described in section 152-A;
- (10) Abandonment of a child as described in section 553;
- (11) Endangering the welfare of a child as described in section 554, subsection 1, paragraph A;
- (12) Unlawful transfer of a firearm other than a handgun to a minor as described in section 554-A;
- (13) Unlawful transfer of a handgun to a minor as described in section 554-B;
- (14) Endangering the welfare of a dependent person as described in section 555, subsection 1, paragraph A or B;
- (15) Incest as described in section 556;
- (16) Patronizing prostitution of a minor or person with mental disability as described in section 855;
- (17) Violation of a protection from harassment order issued pursuant to Title 5, chapter 337-A, a protective order in crimes between family members issued pursuant to Title 15, chapter 12-A or a protection from abuse order issued pursuant to Title 19-A, chapter 101;
- (18) A crime that is not listed in this paragraph that was committed against a person who was in fact less than 18 years of age at the time that the crime was committed;
- (19) Criminal conspiracy as described in section 151 to commit a crime listed in subparagraphs (1) to (18);
- (20) Criminal attempt as described in section 152 to commit a crime listed in subparagraphs (1) to (18); and
- (21) Criminal solicitation as described in section 153 to commit a crime listed in subparagraphs (1) to (18).

B. "Protected person" means a person who in good faith calls for assistance for another person experiencing a suspected drug-related overdose and any person rendering aid at the location of the suspected drug-related overdose.

C. "Rendering aid" means performing any action that involves looking after a person who is experiencing a suspected drug-related overdose while the person performing the action is awaiting the arrival of a medical professional or law enforcement officer to provide assistance. "Rendering aid" includes, but is not limited to, giving first aid or administering or assisting in the administration of naloxone hydrochloride.

2. Immunity from arrest or prosecution. Except with regard to an excluded crime, a protected person is immune from arrest or prosecution for a violation of law if:

A. The grounds for the arrest or prosecution are obtained as a result of a medical professional's or law enforcement officer's responding to a request for medical assistance; or

B. The identity of the protected person is learned or the protected person is identified as a person subject to arrest or prosecution as a result of a medical professional's or law enforcement officer's responding to a request for medical assistance.

3. Immunity from revocation or termination proceedings. Except when the charge or conviction is for an excluded crime, a protected person is immune from revocation proceedings with regard to conditions of release as described in Title 15, chapter 105-A, subchapter 5; probation as described in chapter 67, subchapter 1; administrative release as described in chapter 67, subchapter 2; or supervised community confinement as described in Title 34-A, section 3036-A and is immune from termination proceedings for deferred disposition violations as described in chapter 67, subchapter 4 or termination from community confinement monitoring as described in Title 30-A, section 1659-A, if:

A. The grounds for the revocation or termination proceeding against the protected person are obtained as a result of a medical professional's or law enforcement officer's responding to a request for medical assistance; or

B. The identity of the protected person is learned or the protected person is identified as a person subject to a revocation or termination proceeding as a result of a medical professional's or law enforcement officer's responding to a request for medical assistance.

4. Motion to determine immunity. A criminal defendant may move that the court prior to trial determine whether the defendant is immune from prosecution or revocation or termination proceedings pursuant to subsection 2 or 3. Once the defendant has filed a motion and has presented evidence to establish immunity, the prosecution has the burden of proving by clear and convincing evidence that the grounds for immunity do not apply to the defendant. The court may hear testimony and shall make factual and legal findings as necessary to determine immunity.