

Date: February 3, 2022

Sponsor: Sen Maxmin

Drafter: JO

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**Proposed Committee Amendment to LD 1862, From Senator Maxmin
An Act to Strengthen Maine's Good Samaritan Laws Concerning Drug-related
Medical Assistance**

Amend the bill by striking everything after the enacting clause and by inserting the following:

Sec. 1. 17-A MRS §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 C, §1 and c. 434, §8, is repealed and the following enacted in its place: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 or revocation proceedings when medical assistance has been called for a suspected drug-related overdose

When a medical professional or law enforcement officer has been called to the location of a medical emergency in response to a suspected drug-related overdose, the following provisions apply to any person who in good faith has sought assistance and any other person present at the location when the medical professional or a law enforcement officer arrives to provide assistance. The following provisions apply for the duration of the response to the medical emergency of a drug-related overdose 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 under subsection 2. The following crimes are excluded crimes: an offense against a person under chapter 9; a sexual assault under chapter 11; sexual exploitation of a minor under chapter 12; kidnapping, criminal restraint and criminal forced labor under chapter 13; robbery under section 651; arson under section 802; aggravated sex trafficking under section 852; and sex trafficking under section 853. Excluded crime also means criminal conspiracy under section 151 to commit a crime listed in this paragraph, criminal attempt under section 152 to commit a crime listed in this paragraph, aggravated attempted murder under section 152-A, and criminal solicitation under section 153 to commit a crime listed in this paragraph.

B. “Protected person” means a person who in good faith seeks medical assistance for another person experiencing a suspected drug-related overdose and any other person present at the location when the medical professional or any law enforcement officer arrives to provide assistance.

2. Immunity from arrest, prosecution or revocation proceedings Except with regard to an excluded crime as defined in subsection 1, paragraph A, a protected person is immune from

arrest or prosecution for a violation of law or from revocation proceedings with regard to conditions of release under Title 15, chapter 105-A, subchapter 5, probation under chapter 67, subchapter 1, administrative release under chapter 67, subchapter 2, or supervised community confinement under Title 34-A, section 3036-A, or from termination proceedings for deferred disposition violations under chapter 67, subchapter 4, if:

A. The grounds for the arrest or prosecution of or a revocation proceeding against the protected person are obtained a result of a medical professional or law enforcement officer responding to the call 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, prosecution or revocation as a result of a medical professional or law enforcement officer responding to the call for medical assistance.

3. Motion to determine immunity. A criminal defendant may move the court prior to trial to determine whether the defendant is immune from prosecution pursuant to subsection 2. 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.

SUMMARY

This amendment replaces the bill. The amendment repeals and replaces Title 17-A, Maine Revised Statutes, section 1111-B. The amendment provides that when a medical professional or law enforcement officer has been called to the location of a medical emergency in response to a suspected drug-related overdose, immunity from arrest and prosecution, revocation proceedings and deferred disposition termination proceedings is provided for any person who in good faith sought medical assistance and any other person present at the location when the medical professional or a law enforcement officer arrive to provide medical assistance. The amendment provides a list of excluded crimes that are not subject to immunity. The amendment provides a motion procedure for court determination of immunity.