



## House Bill 1694

*Relating to a 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.*

Substance use and overdose death trends in Texas have evolved and steadily increased in recent years. From June 2019 through June 2020, over 3,500 Texans lost their lives to an overdose.<sup>1</sup> For the first time, Americans' odds of dying from an accidental opioid overdose are higher than from a motor vehicle crash.<sup>2</sup>

There is mounting evidence pointing to a continued and exacerbated substance use and overdose epidemic as a result of COVID-19. Overdoses have not only increased since the pandemic began, but are accelerating as it persists. **The United States lost the most lives to an overdose ever recorded in a 12-month period through May 2020.**<sup>3</sup> On December 17, 2020, the CDC released a Health Advisory Network warning of the increased severity of substance use and subsequent lives lost to overdose. **Texas has seen a 21.8 percent increase in overdose deaths, and is one of 13 states that saw an over 50 percent increase in overdose deaths involving synthetic opioids.**<sup>4</sup>

In recent years, Texas lawmakers have expanded community access to overdose-reversal medication and training, as well as to medication-assisted treatment for opioid use disorders. **Texas, however, still has not enacted an overdose Good Samaritan law.** Good Samaritan protections are policies that provide legal protections for individuals who call for emergency assistance (such as 911) for themselves and/or others in the event of a drug overdose. **Fear of police involvement is the most cited reason for not calling 911 during an overdose and, as a result, fewer than 50 percent of overdoses result in a call for help.**<sup>5,6,7,8</sup>

Though they vary significantly in the level of protections, **47 states and the District of Columbia have passed some form of an overdose Good Samaritan law.**<sup>9</sup> As a result, illicit drug use did not increase and lives were saved; **opioid-related overdose deaths decreased by as much as 15 percent, and there were even greater reductions for African American (26 percent) and Hispanic (16 percent) populations.**<sup>10</sup>

It can be estimated that if Texas had an overdose Good Samaritan law, over 1,800 lives lost to opioids could have been saved from 2008-2018.

## RECOMMENDATION

Texas laws leave victims and bystanders in danger of legal repercussions if they call 911 to save a life during an overdose. HB 1694 would create overdose good Samaritan protections by creating a defense to prosecution for certain drug-related offenses. However, four separate requirements to qualify and four eligibility exceptions are included that limit who is eligible for the protections. While HB 1694 is a good first step to create a pathway that encourages individuals to call 911 during an overdose emergency and save lives, the current language excludes this defense if the person has previous drug convictions or has been placed on community supervision due to a drug-related charges. This includes many of our most vulnerable youth. In 2019, 4,752 youth were placed on community supervision due to felony or misdemeanor drug charges in Texas.

**By removing this exclusionary language, HB 1694 would have the potential to save more lives by encouraging those most at-risk to call 911 when witnessing or experiencing an overdose.** Individuals with criminal justice involvement are at high risk of overdose. Research shows that high risk factors for opioid overdoses include drug-related arrests and recent release from incarceration.<sup>11</sup>

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<sup>1</sup> Center for Disease Control and Prevention. (2021, January 3). *Provisional drug overdose death counts*. Retrieved from <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>

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- <sup>3</sup> Center for Disease Control and Prevention. (2020, December 17). *CDC health advisory: Increase in fatal drug overdoses across the united states driven by synthetic opioids before and during the covid-19 pandemic*. Retrieved from <https://emergency.cdc.gov/han/2020/han00438.asp>
- <sup>4</sup> Ibid.
- <sup>5</sup> Koester, S., Mueller, S. R., Raville, L., Langegger, S., & Binswanger, I. A. (2017). Why are some people who have received overdose education and naloxone reticent to call Emergency Medical Services in the event of overdose? *International Journal of Drug Policy, 48*, 115-127. Retrieved from <https://www.ncbi.nlm.nih.gov/pubmed/28734745c>
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