

SENATE BILL No. 418

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-5-1-6.5; IC 16-42-27-2; IC 35-38-1-7.1.

Synopsis: Emergency medical assistance. Provides that a person for whom emergency medical assistance was requested is immune from prosecution for the violation of certain alcohol and controlled substance possession laws. Provides that a law enforcement officer may not take a person into custody for the violation of a drug possession violation if the law enforcement officer reasonably believes the person is the person who requested emergency medical assistance or acted in concert with another person who requested emergency medical assistance. Provides that a court may consider that a person was convicted of a crime relating to the possession of alcohol or a controlled substance and the person's arrest or prosecution was facilitated in part because another person requested emergency medical assistance for the person as a mitigating circumstance or as favoring suspending a sentence and imposing probation. Makes a technical correction.

Effective: July 1, 2023.

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January 19, 2023, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

SENATE BILL No. 418

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 7.1-5-1-6.5, AS AMENDED BY P.L.156-2014,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 6.5. (a) A law enforcement officer may not take
4 a person into custody based solely on the commission of an offense
5 involving alcohol described in subsection (b) if the law enforcement
6 officer, after making a reasonable determination and considering the
7 facts and surrounding circumstances, reasonably believes that all of the
8 following apply:
9 (1) The law enforcement officer has contact with the person
10 because the person:
11 (A) either:
12 (i) requested emergency medical assistance; or
13 (ii) acted in concert with another person who requested
14 emergency medical assistance;
15 for an individual who reasonably appeared to be in need of
16 medical assistance;
17 (B) is the victim of a reported sex offense (as defined in



- 1 IC 11-8-8-5.2); or
 2 (C) witnessed and reported what the person reasonably
 3 believed to be a crime.
 4 (2) The person described in subdivision (1)(A), (1)(B), or (1)(C):
 5 (A) provided:
 6 (i) the person's full name; and
 7 (ii) any other relevant information requested by the law
 8 enforcement officer; and
 9 (B) in the case of a person described in subdivision (1)(A):
 10 (i) remained at the scene with the individual who reasonably
 11 appeared to be in need of medical assistance until
 12 emergency medical assistance arrived; and
 13 (ii) cooperated with emergency medical assistance personnel
 14 and law enforcement officers at the scene.
 15 (b) A person who meets the criteria of subsection (a)(1) and (a)(2)
 16 **or who is the person for whom emergency medical assistance was**
 17 **requested** is immune from criminal prosecution for an offense under:
 18 (1) section 3 of this chapter if the offense involved a state of
 19 intoxication caused by the person's use of alcohol;
 20 (2) section 6 of this chapter if the offense involved the person
 21 being, or becoming, intoxicated as a result of the person's use of
 22 alcohol; and
 23 (3) IC 7.1-5-7-7.
 24 (c) A person may not initiate or maintain an action against a law
 25 enforcement officer based on the officer's compliance or failure to
 26 comply with this section.
 27 SECTION 2. IC 16-42-27-2, AS AMENDED BY P.L.80-2019,
 28 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2023]: Sec. 2. (a) A prescriber may, directly or by standing
 30 order, prescribe or dispense an overdose intervention drug without
 31 examining the individual to whom it may be administered if all of the
 32 following conditions are met:
 33 (1) The overdose intervention drug is dispensed or prescribed to:
 34 (A) a person at risk of experiencing an opioid-related
 35 overdose; or
 36 (B) a family member, a friend, or any other individual or entity
 37 in a position to assist an individual who, there is reason to
 38 believe, is at risk of experiencing an opioid-related overdose.
 39 (2) The prescriber instructs the individual receiving the overdose
 40 intervention drug or prescription to summon emergency services
 41 either immediately before or immediately after administering the
 42 overdose intervention drug to an individual experiencing an



- 1 opioid-related overdose.
- 2 (3) The prescriber provides education and training on drug
3 overdose response and treatment, including the administration of
4 an overdose intervention drug.
- 5 (4) The prescriber provides drug addiction treatment information
6 and referrals to drug treatment programs, including programs in
7 the local area and programs that offer medication assisted
8 treatment that includes a federal Food and Drug Administration
9 approved long acting, nonaddictive medication for the treatment
10 of opioid or alcohol dependence.
- 11 (b) A prescriber may provide a prescription of an overdose
12 intervention drug to an individual as a part of the individual's addiction
13 treatment plan.
- 14 (c) An individual described in subsection (a)(1) may administer a
15 overdose intervention drug to an individual who is suffering from an
16 overdose.
- 17 (d) An individual described in subsection (a)(1) may not be
18 considered to be practicing medicine without a license in violation of
19 IC 25-22.5-8-2, if the individual, acting in good faith, does the
20 following:
- 21 (1) Obtains the overdose intervention drug from a prescriber or
22 entity acting under a standing order issued by a prescriber.
- 23 (2) Administers the overdose intervention drug to an individual
24 who is experiencing an apparent opioid-related overdose.
- 25 (3) Attempts to summon emergency services either immediately
26 before or immediately after administering the overdose
27 intervention drug.
- 28 (e) An entity acting under a standing order issued by a prescriber
29 must do the following:
- 30 (1) Annually register with either the:
- 31 (A) state department; or
- 32 (B) local health department in the county where services will
33 be provided by the entity;
- 34 in a manner prescribed by the state department.
- 35 (2) Provide education and training on drug overdose response and
36 treatment, including the administration of an overdose
37 intervention drug.
- 38 (3) Provide drug addiction treatment information and referrals to
39 drug treatment programs, including programs in the local area and
40 programs that offer medication assisted treatment that includes a
41 federal Food and Drug Administration approved long acting,
42 nonaddictive medication for the treatment of opioid or alcohol



- 1 dependence.
- 2 (4) Submit an annual report to the state department containing:
- 3 (A) the number of sales of the overdose intervention drug
- 4 dispensed;
- 5 (B) the dates of sale of the overdose intervention drug
- 6 dispensed; and
- 7 (C) any additional information requested by the state
- 8 department.
- 9 (f) The state department shall ensure that a statewide standing order
- 10 for the dispensing of an overdose intervention drug in Indiana is issued
- 11 under this section. The state health commissioner or a designated
- 12 public health authority who is a licensed prescriber may, as part of the
- 13 individual's official capacity, issue a statewide standing order that may
- 14 be used for the dispensing of an overdose intervention drug under this
- 15 section. The immunity provided in IC 34-13-3-3 applies to an
- 16 individual described in this subsection.
- 17 (g) A law enforcement officer may not take an individual into
- 18 custody based solely on the commission of an offense described in
- 19 subsection (h), if the law enforcement officer, after making a
- 20 reasonable determination and considering the facts and surrounding
- 21 circumstances, reasonably believes that the individual **performed the**
- 22 **following actions:**
- 23 (1) **Satisfied either of the following conditions:**
- 24 (A) **The individual:**
- 25 (i) obtained the overdose intervention drug as described in
- 26 subsection (a)(1);
- 27 ~~(2)~~ **(ii) complied with the provisions in subsection (d); and**
- 28 ~~(3)~~ **(iii) administered an overdose intervention drug to a**
- 29 **individual who appeared to be experiencing an**
- 30 **opioid-related overdose.**
- 31 (B) **The individual:**
- 32 **(i) requested emergency medical assistance; or**
- 33 **(ii) acted in concert with another individual who**
- 34 **requested emergency medical assistance;**
- 35 **for an individual who reasonably appeared to be in need of**
- 36 **medical assistance.**
- 37 ~~(4)~~ **(2) Provided:**
- 38 (A) the individual's full name; and
- 39 (B) any other relevant information requested by the law
- 40 enforcement officer.
- 41 ~~(5)~~ **(3) Remained at the scene with the individual who reasonably**
- 42 **appeared to be in need of medical assistance until emergency**



1 medical assistance arrived.

2 ~~(6)~~ (4) Cooperated with emergency medical assistance personnel
3 and law enforcement officers at the scene. ~~and~~

4 ~~(7)~~ (5) Came into contact with law enforcement because the
5 individual requested emergency medical assistance for another
6 individual who appeared to be experiencing an opioid-related
7 overdose.

8 (h) An individual who meets the criteria in subsection (g) **or an**
9 **individual who was administered an overdose intervention drug or**
10 **needed emergency medical assistance** is immune from criminal
11 prosecution for the following:

12 (1) IC 35-48-4-6 (possession of cocaine).

13 (2) IC 35-48-4-6.1 (possession of methamphetamine).

14 (3) IC 35-48-4-7 (possession of a controlled substance).

15 (4) IC 35-48-4-8.3 (possession of paraphernalia).

16 (5) IC 35-48-4-11 (possession of marijuana).

17 (6) An offense under IC 35-48-4 involving possession of a
18 synthetic drug (as defined in IC 35-31.5-2-321), possession of a
19 controlled substance analog (as defined in IC 35-48-1-9.3), or
20 possession of a substance represented to be a controlled substance
21 (as described in IC 35-48-4-4.6).

22 SECTION 3. IC 35-38-1-7.1, AS AMENDED BY P.L.5-2019,
23 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2023]: Sec. 7.1. (a) In determining what sentence to impose
25 for a crime, the court may consider the following aggravating
26 circumstances:

27 (1) The harm, injury, loss, or damage suffered by the victim of an
28 offense was:

29 (A) significant; and

30 (B) greater than the elements necessary to prove the
31 commission of the offense.

32 (2) The person has a history of criminal or delinquent behavior.

33 (3) The victim of the offense was less than twelve (12) years of
34 age or at least sixty-five (65) years of age at the time the person
35 committed the offense.

36 (4) The person:

37 (A) committed a crime of violence (IC 35-50-1-2); and

38 (B) knowingly committed the offense in the presence or within
39 hearing of an individual who:

40 (i) was less than eighteen (18) years of age at the time the
41 person committed the offense; and

42 (ii) is not the victim of the offense.



- 1 (5) The person violated a protective order issued against the
 2 person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or
 3 IC 34-4-5.1 before their repeal), a workplace violence restraining
 4 order issued against the person under IC 34-26-6, or a no contact
 5 order issued against the person.
- 6 (6) The person has recently violated the conditions of any
 7 probation, parole, pardon, community corrections placement, or
 8 pretrial release granted to the person.
- 9 (7) The victim of the offense was:
 10 (A) a person with a disability (as defined in IC 27-7-6-12), and
 11 the defendant knew or should have known that the victim was
 12 a person with a disability; or
 13 (B) mentally or physically infirm.
- 14 (8) The person was in a position having care, custody, or control
 15 of the victim of the offense.
- 16 (9) The injury to or death of the victim of the offense was the
 17 result of shaken baby syndrome (as defined in IC 16-41-40-2).
- 18 (10) The person threatened to harm the victim of the offense or a
 19 witness if the victim or witness told anyone about the offense.
- 20 (11) The person:
 21 (A) committed trafficking with an inmate under
 22 IC 35-44.1-3-5; and
 23 (B) is an employee of the penal facility.
- 24 (12) The person committed the offense with bias due to the
 25 victim's or the group's real or perceived characteristic, trait, belief,
 26 practice, association, or other attribute the court chooses to
 27 consider, including but not limited to an attribute described in
 28 IC 10-13-3-1.
- 29 (b) The court may consider the following factors as mitigating
 30 circumstances or as favoring suspending the sentence and imposing
 31 probation:
 32 (1) The crime neither caused nor threatened serious harm to
 33 persons or property, or the person did not contemplate that it
 34 would do so.
 35 (2) The crime was the result of circumstances unlikely to recur.
 36 (3) The victim of the crime induced or facilitated the offense.
 37 (4) There are substantial grounds tending to excuse or justify the
 38 crime, though failing to establish a defense.
 39 (5) The person acted under strong provocation.
 40 (6) The person has no history of delinquency or criminal activity,
 41 or the person has led a law-abiding life for a substantial period
 42 before commission of the crime.



- 1 (7) The person is likely to respond affirmatively to probation or
2 short term imprisonment.
- 3 (8) The character and attitudes of the person indicate that the
4 person is unlikely to commit another crime.
- 5 (9) The person has made or will make restitution to the victim of
6 the crime for the injury, damage, or loss sustained.
- 7 (10) Imprisonment of the person will result in undue hardship to
8 the person or the dependents of the person.
- 9 (11) The person was convicted of a crime involving the use of
10 force against a person who had repeatedly inflicted physical or
11 sexual abuse upon the convicted person and evidence shows that
12 the convicted person suffered from the effects of battery as a
13 result of the past course of conduct of the individual who is the
14 victim of the crime for which the person was convicted.
- 15 (12) The person was convicted of a crime relating to **alcohol or**
16 **a controlled substance** and the person's arrest or prosecution was
17 facilitated in part because the person:
- 18 (A) requested emergency medical assistance; or
19 (B) acted in concert with another person who requested
20 emergency medical assistance;
21 for an individual who reasonably appeared to be in need of
22 medical assistance due to the use of alcohol or a controlled
23 substance.
- 24 (13) The person has posttraumatic stress disorder, traumatic brain
25 injury, or a postconcussive brain injury.
- 26 **(14) The person was convicted of a crime relating to the**
27 **possession of alcohol or a controlled substance and the**
28 **person's arrest or prosecution was facilitated in part because**
29 **another person requested emergency medical assistance for**
30 **the person.**
- 31 (c) The criteria listed in subsections (a) and (b) do not limit the
32 matters that the court may consider in determining the sentence.
- 33 (d) A court may impose any sentence that is:
34 (1) authorized by statute; and
35 (2) permissible under the Constitution of the State of Indiana;
36 regardless of the presence or absence of aggravating circumstances or
37 mitigating circumstances.
- 38 (e) If a court suspends a sentence and orders probation for a person
39 described in subsection (b)(13), the court may require the person to
40 receive treatment for the person's injuries.

