

2022 Regular Session

HOUSE BILL NO. 601

BY REPRESENTATIVE HUGHES

LIABILITY: Provides relative to immunity for certain actions involving drug-related overdoses

1 AN ACT

2 To amend and reenact R.S. 14:403.10, relative to immunity for certain actions involving
3 drug-related overdose; to provide for persons seeking medical attention for a drug-
4 related overdose; to provide for immunity from arrest; to provide for immunity
5 related to certain drug-related offenses; to provide for exceptions; to provide
6 immunity from certain penalties, sanctions, and civil forfeiture; to provide for
7 suppression of evidence; to provide for mitigating factors; to provide for the
8 admissibility of evidence; to provide for the authority of law enforcement officers
9 to detain persons; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 14:403.10 is hereby amended and reenacted to read as follows:

12 §403.10. Drug-related overdoses; medical assistance; immunity from prosecution

13 A.(1) A person acting in good faith who seeks medical assistance for an
14 individual experiencing a drug-related overdose may not be charged, prosecuted, or
15 penalized for possession or use of a controlled dangerous substance under the
16 Uniform Controlled Dangerous Substances Law or of possession of drug
17 paraphernalia as defined in R.S. 40:1021, if the evidence for ~~possession of a~~
18 ~~controlled dangerous substance~~ such offenses was obtained as a result of the person's
19 seeking medical assistance; ~~unless the person illegally provided or administered a~~
20 ~~controlled dangerous substance to the individual.~~

1 (2) Any such person shall also not be subject to the following, if related to
2 seeking medical assistance:

3 (a) Sanctions for a violation of a condition of pretrial release, condition of
4 probation, or condition of parole, related to the incident which required medical
5 assistance as provided in Paragraph (1) of this Subsection.

6 (b) Civil forfeiture of property, related to the incident which required
7 medical assistance as provided in Paragraph (1) of this Subsection.

8 B.(1) A person who experiences a drug-related overdose and is in need of
9 medical assistance shall not be arrested, charged, prosecuted, or penalized for
10 possession or use of a controlled dangerous substance under the Uniform Controlled
11 Dangerous Substances Law or for possession of drug paraphernalia as defined in
12 R.S. 40:1021 if the evidence for ~~possession of a controlled substance~~ such offenses
13 was obtained as a result of the overdose and the need for medical assistance.

14 (2) Any such person shall not be subject to the following, if related to
15 seeking medical assistance:

16 (a) Sanctions for a violation of a condition of pretrial release, condition of
17 probation, or condition of parole, related to the incident which required medical
18 assistance as provided in Paragraph (1) of this Subsection.

19 (b) Civil forfeiture of property, related to the incident which required
20 medical assistance as provided in Paragraph (1) of this Subsection.

21 C. Protection from prosecution in this Section ~~from prosecution for~~
22 ~~possession offenses under the Uniform Controlled Dangerous Substances Law~~ may
23 not be grounds for suppression of evidence in other criminal prosecutions.

24 D. The act of providing or seeking first aid or other medical assistance for
25 someone who is experiencing a drug overdose may be used as a mitigating factor in
26 a criminal prosecution for which immunity provided by Subsection B of this Section
27 is not provided.

28 E. Nothing in this Section shall limit any seizure of evidence or contraband
29 otherwise permitted by law.

1 F. Nothing in this Section shall limit or abridge the authority of a law
2 enforcement officer to detain or take into custody a person in the course of an
3 investigation or to effectuate an arrest for any offense except as provided in
4 Subsections A and B of this Section.

5 G. Nothing in this Section shall limit the admissibility of any evidence in
6 connection with the investigation or prosecution of a crime with regard to a
7 defendant who does not qualify for the protections of Subsections A or B of this
8 Section or with regard to other crimes committed by a person who otherwise
9 qualifies for the protections of Subsection A or B of this Section.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 601 Engrossed

2022 Regular Session

Hughes

Abstract: Provides for immunity from prosecution for persons seeking medical assistance for a drug-related overdose.

Present law provides that a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled dangerous substance if the evidence for the offense was obtained as a result of the person's seeking medical assistance, unless the person illegally provided or administered a controlled dangerous substance to the individual.

Proposed law further provides that such person may not be charged, prosecuted, or penalized for use of a controlled dangerous substance or for possession of drug paraphernalia.

Proposed law removes present law exception to immunity when a person illegally provided or administered a controlled dangerous substance to the individual.

Present law provides that a person who experiences a drug-related overdose and is in need of medical assistance shall not be charged, prosecuted, or penalized for possession of a controlled dangerous substance if the evidence for the offense was obtained as a result of the overdose and the need for medical assistance.

Proposed law further provides that such person may not be arrested, charged, prosecuted or penalized for use of a controlled dangerous substance or for possession of drug paraphernalia if evidence for the offense was obtained as a result of the overdose and the need for medical assistance.

Proposed law provides that any person seeking medical assistance for an individual experiencing a drug-related overdose or any person experiencing a drug-related overdose shall also not be subject to the following, if related to seeking medical assistance:

- (1) Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole, related to the incident which required medical assistance.

(2) Civil forfeiture of property, related to the incident which required medical assistance.

Present law provides that protection from prosecution may not be grounds for suppression of evidence in other criminal prosecutions.

Proposed law retains present law.

Proposed law provides the act of providing or seeking first aid or other medical assistance for someone who is experience a drug overdose may be used as a mitigating factor in a criminal prosecution for which immunity provided by present law and proposed law is not provided.

Proposed law shall not limit any seizure of evidence or contraband otherwise permitted by law.

Proposed law shall not limit or abridge the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided by proposed law.

Proposed law shall not limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regard to a defendant who does not qualify for the protections of proposed law or with regard to other crimes committed by a person who otherwise qualifies for the protections of proposed law.

(Amends R.S. 14:403.10)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Remove proposed law which provides that a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be arrested.
2. Remove proposed law which provides relative to informal exchange of amounts indicative of personal use.
3. Provide that persons seeking medical assistance for a drug-related overdose may not be charged, prosecuted, or penalized for possession of drug paraphernalia rather than possession with intent to use drug paraphernalia.
4. Remove proposed law relative to the enforcement for a violation of a permanent or temporary protective order or restraining order.
5. Provide that persons seeking medical assistance for a drug-related overdose shall not be subject to sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole and civil forfeiture, as related to the incident which required medical assistance.
6. Remove proposed law which provides that the maximum number of individuals that may claim immunity for any one incident is three.