

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2110

By: Pae

4
5
6 AS INTRODUCED

7 An Act relating to public health and safety; amending
8 63 O.S. 2021, Section 2-413.1, which relates to
9 emergency medical assistance and immunity from
10 prosecution; expanding protection; providing immunity
11 for rendering emergency medical assistance for drug
12 or alcohol overdose; updating citation; providing
13 protections from prosecution under certain
14 circumstances; providing protections from arrest
15 under certain circumstances; requiring certain
16 finding by court; defining terms; and providing an
17 effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-413.1, is
20 amended to read as follows:

21 Section 2-413.1 A. A peace officer shall not take a person
22 into custody based solely on the commission of an offense involving
23 ~~a controlled dangerous substance~~ described in subsection B of this
24 section if ~~the peace officer, after making a reasonable~~
~~determination and considering the facts and surrounding~~
~~circumstances, reasonably believes that all of the following apply:~~

1 1. ~~The peace officer has contact with the person because the~~
2 ~~person requested emergency medical assistance for,~~ or administered
3 naloxone hydrochloride to, ~~an individual,~~ including himself or
4 herself, ~~who reasonably appeared to be in need of medical assistance~~
5 ~~due to the use of a controlled dangerous substance~~ a drug or alcohol
6 overdose; and or

7 2. ~~The person~~ was the subject of a request for emergency
8 medical assistance or the administration of naloxone hydrochloride

9 a. ~~provided his or her full name and any other relevant~~
10 ~~information requested by the peace officer,~~

11 b. ~~remained at the scene with the individual who~~
12 ~~reasonably appeared to be in need of medical~~
13 ~~assistance due to the use of a controlled dangerous~~
14 ~~substance until emergency medical assistance arrived,~~
15 ~~and~~

16 c. ~~cooperated with emergency medical assistance personnel~~
17 ~~and peace officers at the scene.~~

18 B. A person who meets the criteria of subsection A of this
19 section is immune from criminal prosecution for possession of a
20 ~~Schedule I or Schedule II~~ controlled dangerous substance, as ~~listed~~
21 ~~provided in Sections 2-204 and 2-206~~ prohibited by subsection A of
22 Section 2-402 of Title 63 of the Oklahoma Statutes this title,
23 ~~provided the amount of such controlled dangerous substance does not~~
24 ~~constitute trafficking, as provided in subsection C of Section 2-415~~

1 ~~of Title 63 of the Oklahoma Statutes,~~ and for possession of drug
2 paraphernalia associated with a controlled dangerous substance, as
3 defined in paragraph 36 of Section 2-101 of ~~Title 63 of the Oklahoma~~
4 ~~Statutes~~ this title. ~~Further, a person is only immune from~~
5 ~~prosecution for the aforementioned offenses if the offense involved~~
6 ~~a state of intoxication caused by the use of a controlled dangerous~~
7 ~~substance by a person or if the offense involved the person being or~~
8 ~~becoming intoxicated as a result of the use of a controlled~~
9 ~~dangerous substance by a person.~~

10 C. A person who meets the criteria of subsection A of this
11 section shall not be subject to revocation of probation, pretrial
12 release, or parole, or otherwise penalized, nor shall the person's
13 property be subject to forfeiture, based solely on an offense
14 described in subsection B of this section.

15 D. A person who meets the criteria of subsection A of this
16 section shall not be arrested on an outstanding warrant for an
17 offense described in subsection B of this section, or on an
18 outstanding warrant for a violation of the conditions of the
19 person's probation, pretrial release, or parole for conduct that
20 would constitute an offense described in subsection B of this
21 section, if the location of the person was obtained because the
22 person requested emergency medical assistance or was the subject of
23 a request for emergency medical assistance as described in
24 subsection A of this section.

1 E. Notwithstanding any other law, the act of seeking emergency
2 medical assistance for someone who is experiencing a drug or alcohol
3 overdose shall be considered by the court as a mitigating factor in
4 any criminal prosecution for which immunity is not provided for by
5 this section.

6 F. A person may not initiate or maintain ~~an~~ a civil action
7 against a peace officer or the employing political subdivision of
8 the peace officer based on the compliance or failure of the peace
9 officer to comply with the provisions of this section.

10 ~~D.~~ G. For the purposes of this section,

11 1. "Peace officer" shall have the same meaning as defined
12 in Section 99 of Title 21 of the Oklahoma Statutes;

13 2. "Drug or alcohol overdose" shall mean:

14 a. a condition, including but not limited to extreme
15 physical illness, decreased level of consciousness,
16 respiratory depression, coma, mania, or death, that is
17 the result of consumption or use of a controlled
18 substance or alcohol or a substance with which the
19 controlled substance or alcohol was combined, or

20 b. a condition that a layperson would reasonably believe
21 to be a drug or alcohol overdose; and

22 3. "Emergency medical assistance" shall include, but is not
23 limited to, reporting a drug or alcohol overdose or other medical
24 emergency to a peace officer, the 911 system, college or university

1 official, a poison control center, or a medical provider; assisting
2 someone so reporting; or providing care to someone who is
3 experiencing a drug or alcohol overdose or other medical emergency
4 while awaiting the arrival of medical assistance.

5 SECTION 2. This act shall become effective November 1, 2023.

6

7 59-1-5336 AQH 12/16/22

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24