

MAINE STATE LEGISLATURE

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MINORITY

CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE

SENATE

130TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 661, L.D. 1862, "An Act To Strengthen Maine's Good Samaritan Laws Concerning Drug-related Medical Assistance"

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

'Sec. 1. 17-A MRSA §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 C, §1 and c. 434, §8, is repealed and the following enacted in its place: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 and revocation and termination proceedings when assistance has been requested for suspected drug-related overdose

When a medical professional or law enforcement officer has been dispatched to the location of a medical emergency in response to a call for assistance for a suspected drug-related overdose, the following provisions apply to any protected person at the location when the medical professional or the law enforcement officer arrives. The immunity provisions of subsections 2 and 3 apply for the duration of the response to the medical emergency 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 as described under subsection 2 or 3. The following crimes are excluded crimes:

- (1) An offense against a person as described in chapter 9;
- (2) Sexual assault as described in chapter 11;
- (3) Sexual exploitation of a minor as described in chapter 12;
- (4) Kidnapping, criminal restraint and criminal forced labor as described in chapter 13;
- (5) Robbery as described in section 651;

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- 1 (6) Arson as described in section 802;
- 2 (7) Aggravated sex trafficking as described in section 852;
- 3 (8) Sex trafficking as described in section 853;
- 4 (9) Aggravated attempted murder as described in section 152-A;
- 5 (10) Abandonment of a child as described in section 553;
- 6 (11) Endangering the welfare of a child as described in section 554, subsection 1,
- 7 paragraph A;
- 8 (12) Unlawful transfer of a firearm other than a handgun to a minor as described
- 9 in section 554-A;
- 10 (13) Unlawful transfer of a handgun to a minor as described in section 554-B;
- 11 (14) Endangering the welfare of a dependent person as described in section 555,
- 12 subsection 1, paragraph A or B;
- 13 (15) Incest as described in section 556;
- 14 (16) Patronizing prostitution of a minor or person with mental disability as
- 15 described in section 855;
- 16 (17) Violation of a protection from harassment order issued pursuant to Title 5,
- 17 chapter 337-A, a protective order in crimes between family members issued
- 18 pursuant to Title 15, chapter 12-A or a protection from abuse order issued pursuant
- 19 to Title 19-A, chapter 101;
- 20 (18) A crime that is not listed in this paragraph that was committed against a person
- 21 who was in fact less than 18 years of age at the time that the crime was committed;
- 22 (19) Criminal conspiracy as described in section 151 to commit a crime listed in
- 23 subparagraphs (1) to (18);
- 24 (20) Criminal attempt as described in section 152 to commit a crime listed in
- 25 subparagraphs (1) to (18); and
- 26 (21) Criminal solicitation as described in section 153 to commit a crime listed in
- 27 subparagraphs (1) to (18).
- 28 B. "Protected person" means a person who in good faith calls for assistance for another
- 29 person experiencing a suspected drug-related overdose and any person present at the
- 30 location of the suspected drug-related overdose when a medical professional or law
- 31 enforcement officer arrives to provide assistance.
- 32 **2. Immunity from arrest or prosecution.** Except with regard to an excluded crime,
- 33 a protected person is immune from arrest or prosecution for a violation of law if:
- 34 A. The grounds for the arrest or prosecution are obtained as a result of a medical
- 35 professional's or law enforcement officer's responding to a request for medical
- 36 assistance; or
- 37 B. The identity of the protected person is learned or the protected person is identified
- 38 as a person subject to arrest or prosecution as a result of a medical professional's or law
- 39 enforcement officer's responding to a request for medical assistance.

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1 **3. Immunity from revocation or termination proceedings.** Except when the charge
2 or conviction is for an excluded crime, a protected person is immune from revocation
3 proceedings with regard to conditions of release as described in Title 15, chapter 105-A,
4 subchapter 5; probation as described in chapter 67, subchapter 1; administrative release as
5 described in chapter 67, subchapter 2; or supervised community confinement as described
6 in Title 34-A, section 3036-A and is immune from termination proceedings for deferred
7 disposition violations as described in chapter 67, subchapter 4 or termination from
8 community confinement monitoring as described in Title 30-A, section 1659-A, if:

9 A. The grounds for the revocation or termination proceeding against the protected
10 person are obtained as a result of a medical professional's or law enforcement officer's
11 responding to a request for medical assistance; or

12 B. The identity of the protected person is learned or the protected person is identified
13 as a person subject to a revocation or termination proceeding as a result of a medical
14 professional's or law enforcement officer's responding to a request for medical
15 assistance.

16 **4. Motion to determine immunity.** A criminal defendant may move that the court
17 prior to trial determine whether the defendant is immune from arrest, prosecution or
18 revocation or termination proceedings pursuant to subsection 2 or 3. Once the defendant
19 has filed a motion and has presented evidence to establish immunity, the prosecution has
20 the burden of proving by clear and convincing evidence that the grounds for immunity do
21 not apply to the defendant. The court may hear testimony and shall make factual and legal
22 findings as necessary to determine immunity.'

23 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
24 number to read consecutively.

25 SUMMARY

26 This amendment, which is the minority report of the committee, replaces the bill. The
27 amendment repeals and replaces the Maine Revised Statutes, Title 17-A, section 1111-B.
28 The amendment provides that when a medical professional or law enforcement officer has
29 been dispatched to the location of a medical emergency in response to a suspected drug-
30 related overdose, any person who in good faith sought medical assistance for the medical
31 emergency and any person present at the location of the medical emergency when the
32 medical professional or law enforcement officer arrives to provide assistance is immune
33 from arrest, prosecution and revocation and termination proceedings. The amendment
34 provides a list of crimes that are not subject to immunity, including but not limited to sex
35 crimes, crimes of violence and crimes against children. The amendment provides that
36 immunity from revocation or termination proceedings regarding violations of conditions of
37 release, administrative release, probation, supervised community confinement, deferred
38 disposition and community confinement monitoring does not apply if the charge or
39 conviction is an excluded crime. The amendment provides a motion procedure for the court
40 determination of immunity prior to trial.

41 FISCAL NOTE REQUIRED

42 (See attached)



Approved: 03/10/22 *mac*

130th MAINE LEGISLATURE

LD 1862

LR 2476(02)

An Act To Strengthen Maine's Good Samaritan Laws Concerning Drug-related Medical Assistance

Fiscal Note for Bill as Amended by Committee Amendment "B" (S-560)
Committee: Criminal Justice and Public Safety
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Correctional and Judicial Impact Statements

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.