



Legislative Council Staff

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Fiscal Note

Drafting Number:	LLS 23-0414	Date:	February 14, 2023
Prime Sponsors:	Rep. deGruy Kennedy	Bill Status:	House Judiciary
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Bill Topic: **REPORTING OF EMERGENCY OVERDOSE EVENTS**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill extends Good Samaritan immunity to persons reporting overdose events related to synthetic opiates. It also creates an affirmative defense for drug overdose reporting in distribution cases where the amount is 4 grams or less. The bill will impact state and local revenue and workload on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

Under current law, “Good Samaritan” laws make a person immune from arrest and prosecution of certain criminal offenses if the person reports a drug or alcohol overdose event to an emergency responder and cooperates with law enforcement and emergency responders. The bill extends “Good Samaritan” immunity to unlawful possession of a controlled substance if the material, compound, mixture, or preparation contains a synthetic opiate, and to unlawful distribution or transfer of the controlled substance for the purpose of consuming all of the controlled substance with another person at a time substantially contemporaneous with the transfer, if the distribution or transfer involves certain controlled substances.

Additionally, the bill creates an affirmative defense to the prosecution for unlawful distribution, manufacturing, dispensing, transfer, or sale of a material, compound, mixture, or preparation that weighs 4 grams or less and contains any amount of certain controlled substances where the offense arises from the same course of events from which the emergency overdose event arose, and the defendant reports the overdose, remains at the scene, and provides identification to emergency responders.

Background and Assumptions

The bill applies to drug offenses ranging from level 1 drug misdemeanors to level 3 drug felonies. The sentencing range for a level 1 drug misdemeanor is 6 to 18 months in jail, a fine ranging from \$500 to \$5,000, or both. The sentencing range for a level 3 drug felony is 2 to 4 years in prison or a fine ranging from \$3,000 to \$750,000.

Assuming that synthetic opiate overdoses will generate the main impact from the bill and using Judicial Department data, approximately 280 defendants per year are charged for synthetic opiate-related offenses covered by this bill and no other offenses. Estimating that 10 percent of cases involve a synthetic opiate overdose, 28 cases may be impacted by the bill. Applying mitigating factors, such as knowledge of the law and whether a person will report an overdose, the workload impact to the criminal justice system is expected to be minimal.

State Revenue and Expenditures

Based on the assumptions above, this analysis assumes that there will be a minimal impact on state revenue and expenditures. Under the bill, criminal fines and court fees, which are subject to TABOR, may increase by a minimal amount. Similarly, any increase in workload and costs for the Judicial Department, including the trial courts, Division of Probation, and agencies that provide representation to indigent persons, and to the Department of Corrections, are assumed to be minimal and no change in appropriations is required.

Local Government

To the extent that this bill leads to an increase in reporting of overdose events, local law enforcement agencies may experience an increase in workload. On the other hand, specifying that individuals experiencing or reporting overdoses are now immune from arrest may decrease workload for law enforcement. The bill also has the potential to reduce the workload of district attorneys and the Denver County Court as additional persons are granted immunity from prosecution. Because arrests during overdose events are rare, the local government impact is expected to be minimal.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Counties
Judicial
Sheriffs

Denver County Courts
Municipalities

District Attorneys
Public Safety