

## **BILL ANALYSIS**

H.B. 73  
By: Guillen  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties note an increase in the number of deaths related to drug overdoses in Texas. The parties contend that many of these deaths are preventable by emergency medical assistance summoned in a timely manner and further assert that an individual is more likely to contact the proper authorities if the individual is not concerned about potential prosecution for drug possession. H.B. 73 seeks to create a defense to prosecution for certain drug offenses for a person who requests emergency medical assistance in response to the possible overdose of another person or who was the victim of a possible overdose for which such assistance was requested under certain circumstances.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 73 amends the Health and Safety Code to establish as a defense to prosecution for the following offenses that the actor was the first person to request emergency medical assistance in response to the possible overdose of another person and made the request for medical assistance during an ongoing medical emergency, remained on the scene until the medical assistance arrived, and cooperated with medical assistance and law enforcement personnel or that the actor was the victim of a possible overdose for which emergency medical assistance was requested, by the actor or by another person, during an ongoing medical emergency:

- a state jail felony offense of possession of a substance listed in Penalty Group 1, 1-A, or 2 of the Texas Controlled Substances Act;
- a Class A or Class B misdemeanor offense of possession of a substance listed in Penalty Group 2-A of the act;
- a Class A misdemeanor offense of possession of a substance listed in Penalty Group 3 of the act;
- a Class B misdemeanor offense of possession of a substance listed in Penalty Group 4 of the act;
- a Class B misdemeanor offense of possession of a substance listed in a schedule by an action of the commissioner of state health services but not listed in a penalty group;
- a Class A or Class B misdemeanor offense of possession of marihuana;

- a Class C misdemeanor offense of possession of drug paraphernalia;
- a possession of a dangerous drug offense; and
- a possession or use of an abusable volatile chemical offense.

H.B. 73 makes the defense unavailable if, at the time the request for emergency medical assistance was made, a peace officer was in the process of arresting the actor or executing a search warrant describing the actor or the place from which the request for medical assistance was made. The defense expressly does not preclude the admission of evidence obtained by law enforcement resulting from the request for emergency medical assistance if that evidence pertains to an offense for which the defense is not available.

**EFFECTIVE DATE**

September 1, 2017.