

BILL ANALYSIS

H.B. 1694
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Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The COVID-19 pandemic has exacerbated many of the circumstances contributing to an increase in drug overdose deaths, with recent reports of an increase in such deaths of nearly 26 percent from July 2019 to July 2020. Similarly, first responder reports of overdose-related cardiac arrests were up nearly 49 percent as of August 2020. These notable increases suggest that Texans may be dying from drug overdoses that may otherwise be prevented, particularly with the immediate involvement of nearby bystanders. However, fear of arrest is the most-cited reason emergency assistance is not sought by bystanders in these situations. The National Library of Medicine has estimated that Good Samaritan laws that protect 9-1-1 callers and overdose victims from prosecution have produced a decrease in drug overdose-related deaths by nearly 15 percent.

H.B. 1694 seeks to address this issue by establishing as a defense to prosecution for certain drug-related offenses that the actor was the first person to request medical assistance for a possible overdose or was the victim of a possible overdose.

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. 1694 amends the Health and Safety Code to establish as a defense to prosecution for possession of certain amounts of a substance in Penalty Groups 1, 1-A, 2, 2-A, 3, and 4 of the Texas Controlled Substances Act; the manufacture, delivery, or possession of a miscellaneous substance under the act; possession of marijuana in certain amounts; possession or delivery of drug paraphernalia; possession of a dangerous drug; and possession and use of an abusable volatile chemical 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 during an ongoing medical emergency, remained on the scene until the assistance arrived, and cooperated with medical assistance and law enforcement personnel; or
- was the victim of a possible overdose for which assistance was requested, by the actor or by another person, during an ongoing medical emergency.

H.B. 1694 establishes that such a defense to prosecution is not available 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 was made or the actor is committing another offense other than an offense punishable in a certain manner to which a defense to prosecution under the bill's provisions applies;

- the actor has been previously convicted of or placed on deferred adjudication community supervision for an offense under the Texas Controlled Substances Act, Texas Dangerous Drug Act, or statutory provisions relating to abusable volatile chemicals; or
- the actor was acquitted in a previous proceeding in which the actor successfully established a defense to prosecution under the bill's provisions.

H.B. 1694 establishes that such a defense to prosecution 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, 2021.