

2022 Regular Session

HOUSE BILL NO. 601

BY REPRESENTATIVE HUGHES

LIABILITY: Provides relative to immunity for certain actions involving drug-related overdoses

1 AN ACT

2 To amend and reenact R.S. 14:403.10, relative to immunity for certain actions involving  
3 drug-related overdose; to provide for persons seeking medical attention for a drug-  
4 related overdose; to provide for immunity from arrest; to provide for immunity  
5 related to certain drug-related offenses; to provide for exceptions; to provide  
6 immunity from certain penalties, sanctions, and civil forfeiture; to provide for  
7 suppression of evidence; to provide for mitigating factors; to provide for the  
8 admissibility of evidence; to provide for the authority of law enforcement officers  
9 to detain persons; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 14:403.10 is hereby amended and reenacted to read as follows:

12 §403.10. Drug-related overdoses; medical assistance; immunity from prosecution

13 A.(1) A person acting in good faith who seeks medical assistance for an  
14 individual experiencing a drug-related overdose may not be arrested, charged,  
15 prosecuted, or penalized for possession, use, or informal exchange of amounts  
16 indicative of personal use of a controlled dangerous substance under the Uniform  
17 Controlled Dangerous Substances Law, or of possession with intent to use drug  
18 paraphernalia as defined in R.S. 40:1021, if the evidence for ~~possession of a~~  
19 ~~controlled dangerous substance~~ such offenses was obtained as a result of the person's

1 seeking medical assistance, ~~unless the person illegally provided or administered a~~  
2 ~~controlled dangerous substance to the individual.~~

3 (2) Any such person shall also not be subject to the following, if related to  
4 seeking medical assistance:

5 (a) Penalties for a violation of a permanent or temporary protective order or  
6 restraining order.

7 (b) Sanctions for a violation of a condition of pretrial release, condition of  
8 probation, or condition of parole.

9 (c) Civil forfeiture of property.

10 (3) The maximum number of individuals that may claim immunity for any  
11 one incident is three.

12 B.(1) A person who experiences a drug-related overdose and is in need of  
13 medical assistance shall not be arrested, charged, prosecuted, or penalized for  
14 possession, use, or informal exchange of amounts indicative of personal use, of a  
15 controlled dangerous substance under the Uniform Controlled Dangerous Substances  
16 Law, or of possession with intent to use drug paraphernalia as defined in R.S.  
17 40:1021 if the evidence for ~~possession of a controlled substance~~ such offenses was  
18 obtained as a result of the overdose and the need for medical assistance.

19 (2) Any such person shall not be subject to the following, if related to  
20 seeking medical assistance:

21 (a) Penalties for a violation of a permanent or temporary protective order or  
22 restraining order.

23 (b) Sanctions for a violation of a condition of pretrial release, condition of  
24 probation, or condition of parole.

25 (c) Civil forfeiture of property.

26 C. Protection from prosecution in this Section ~~from prosecution for~~  
27 ~~possession offenses under the Uniform Controlled Dangerous Substances Law~~ may  
28 not be grounds for suppression of evidence in other criminal prosecutions.

1           D. The act of providing or seeking first aid or other medical assistance for  
2           someone who is experiencing a drug overdose may be used as a mitigating factor in  
3           a criminal prosecution for which immunity provided by Subsection B of this Section  
4           is not provided.

5           E. Nothing in this Section shall limit any seizure of evidence or contraband  
6           otherwise permitted by law.

7           F. Nothing in this Section shall limit or abridge the authority of a law  
8           enforcement officer to detain or take into custody a person in the course of an  
9           investigation or to effectuate an arrest for any offense except as provided in  
10          Subsections A and B of this Section.

11          G. Nothing in this Section shall limit the admissibility of any evidence in  
12          connection with the investigation or prosecution of a crime with regard to a  
13          defendant who does not qualify for the protections of Subsections A or B of this  
14          Section or with regard to other crimes committed by a person who otherwise  
15          qualifies for the protections of Subsection A or B of this Section.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 601 Original

2022 Regular Session

Hughes

**Abstract:** Provides immunities for persons seeking medical assistance for a drug-related overdose.

Present law provides that a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled dangerous substance if the evidence for the offense was obtained as a result of the person's seeking medical assistance, unless the person illegally provided or administered a controlled dangerous substance to the individual.

Proposed law further provides that such person may not be arrested, charged, prosecuted or penalized for use or informal exchange of amounts indicative of personal use of a controlled dangerous substance or of possession with intent to use drug paraphernalia.

Proposed law repeals present law exception to immunity when a person illegally provided or administered a controlled dangerous substance to the individual.

Proposed law provides the maximum number of individuals that may claim immunity for any one incident of seeking medical assistance for an individual experience a drug-related overdose is three.

Present law provides that a person who experiences a drug-related overdose and is in need of medical assistance shall not be charged, prosecuted, or penalized for possession of a controlled dangerous substance if the evidence for the offense was obtained as a result of the overdose and the need for medical assistance.

Proposed law further provides that such person may not be arrested, charged, prosecuted or penalized for use or informal exchange of amounts indicative of personal use or of possession with intent to use drug paraphernalia if evidence for the offense was obtained as a result of the overdose and the need for medical assistance.

Proposed law provides that any person seeking medical assistance for an individual experiencing a drug-related overdose or any person experiencing a drug-related overdose shall also not be subject to the following, if related to seeking medical assistance:

- (1) Penalties for a violation of a permanent or temporary protective order or restraining order.
- (2) Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole.
- (3) Civil forfeiture of property.

Present law provides that protection from prosecution may not be grounds for suppression of evidence in other criminal prosecutions.

Proposed law maintains present law.

Proposed law provides the act of providing or seeking first aid or other medical assistance for someone who is experience a drug overdose may be used as a mitigating factor in a criminal prosecution for which immunity provided by present law and proposed law is not provided.

Proposed law shall not limit any seizure of evidence or contraband otherwise permitted by law.

Proposed law shall not limit or abridge the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided by proposed law.

Proposed law shall not limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regard to a defendant who does not qualify for the protections of proposed law or with regard to other crimes committed by a person who otherwise qualifies for the protections of proposed law.

(Amends R.S. 14:403.10)