

An Act

ENROLLED SENATE
BILL NO. 1367

By: Yen of the Senate

and

Derby and Downing of the
House

An Act relating to public health and safety; providing immunity from prosecution for drug-related offenses under certain circumstances; providing exceptions; prohibiting the filing of certain actions against peace officers; defining certain term; providing for codification; and providing an effective date.

SUBJECT: Immunity from criminal prosecution for drug-related offenses under certain circumstances

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-413.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A peace officer shall not take a person into custody based solely on the commission of an offense involving a controlled dangerous substance described in subsection B of this section if the peace officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that all of the following apply:

1. The peace officer has contact with the person because the person requested emergency medical assistance for an individual who reasonably appeared to be in need of medical assistance due to the use of a controlled dangerous substance; and

2. The person:

- a. provided his or her full name and any other relevant information requested by the peace officer,
- b. remained at the scene with the individual who reasonably appeared to be in need of medical assistance due to the use of a controlled dangerous substance until emergency medical assistance arrived, and
- c. cooperated with emergency medical assistance personnel and peace officers at the scene.

B. A person who meets the criteria of subsection A of this section is immune from criminal prosecution for possession of a Schedule I or Schedule II controlled dangerous substance, as listed in Sections 2-204 and 2-206 of Title 63 of the Oklahoma Statutes, provided the amount of such controlled dangerous substance does not constitute trafficking, as provided in subsection C of Section 2-415 of Title 63 of the Oklahoma Statutes, and for possession of drug paraphernalia associated with a controlled dangerous substance, as defined in paragraph 36 of Section 2-101 of Title 63 of the Oklahoma Statutes. Further, a person is only immune from prosecution for the aforementioned offenses if the offense involved a state of intoxication caused by the use of a controlled dangerous substance by a person or if the offense involved the person being or becoming intoxicated as a result of the use of a controlled dangerous substance by a person.

C. A person may not initiate or maintain an action against a peace officer or the employing political subdivision of the peace officer based on the compliance or failure of the peace officer to comply with the provisions of this section.

D. For the purposes of this section, "peace officer" shall have the same meaning as defined in Section 99 of Title 21 of the Oklahoma Statutes.

SECTION 2. This act shall become effective November 1, 2018.

Passed the Senate the 30th day of April, 2018.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of April, 2018.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____