HOUSE BILL 2110

By: Pae of the House
and
Rader of the Senate

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 2021, Section 2-413.1, which relates to emergency medical assistance and immunity from prosecution; expanding protection; providing immunity for rendering emergency medical assistance for drug or alcohol overdose; updating citation; providing protections from prosecution under certain circumstances; providing protections from arrest under certain circumstances; requiring certain findings by court; defining terms; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-413.1, is amended to read as follows:

Section 2-413.1 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, or administered naloxone hydrochloride to, an individual, including himself or herself, who reasonably appeared to be in need of medical assistance due to the use of a controlled dangerous substance a drug or alcohol overdose; and or

2. The person was the subject of a request for emergency medical assistance or the administration of naloxone hydrochloride
   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 provided in Sections 2-204 and 2-206 prohibited by subsection A of Section 2-402 of Title 63 of the Oklahoma Statutes this title,
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 this title. 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 who meets the criteria of subsection A of this section shall not be subject to revocation of probation, pretrial release, or parole, or otherwise penalized, nor shall the person's property be subject to forfeiture, based solely on an offense described in subsection B of this section.

D. A person who meets the criteria of subsection A of this section shall not be arrested on an outstanding warrant for an offense described in subsection B of this section, or on an outstanding warrant for a violation of the conditions of the person's probation, pretrial release, or parole for conduct that would constitute an offense described in subsection B of this section, if the location of the person was obtained because the person requested emergency medical assistance or was the subject of
a request for emergency medical assistance as described in subsection A of this section.

E. Notwithstanding any other law, the act of seeking emergency medical assistance for someone who is experiencing a drug or alcohol overdose shall be considered by the court as a mitigating factor in any criminal prosecution for which immunity is not provided for by this section.

F. A person may not initiate or maintain an a civil 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:

1. "Peace officer" shall have the same meaning as defined in Section 99 of Title 21 of the Oklahoma Statutes;

2. "Drug or alcohol overdose" shall mean:

a. a condition, including but not limited to extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, that is the result of consumption or use of a controlled substance or alcohol or a substance with which the controlled substance or alcohol was combined, or

b. a condition that a layperson would reasonably believe to be a drug or alcohol overdose; and
3. "Emergency medical assistance" shall include, but is not limited to, reporting a drug or alcohol overdose or other medical emergency to a peace officer, the 911 system, college or university official, a poison control center, or a medical provider; assisting someone so reporting; or providing care to someone who is experiencing a drug or alcohol overdose or other medical emergency while awaiting the arrival of medical assistance.

SECTION 2. This act shall become effective November 1, 2023.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated 02/23/2023 - DO PASS, As Coauthored.