

OVERDOSE BYSTANDER LAW

AN OVERVIEW

What Happens Now if You Call 911 in Texas?

HB 1694 (also known as The Jessica Sosa Act) establishes a defense to prosecution in certain cases for people who call 911 for a possible overdose. This defense is not available for people who have previous convictions under certain drug laws, people who have already used the defense in the past and people who have called 911 for a possible overdose in the last 18 months. It becomes **effective September 1, 2021**, and it applies to any event on or after this date. This law **does not** provide full immunity from liability. So, to create clarity, we are referring to it as the *Overdose Bystander Law*.

HB 1694 (87th Legislature, 2021)

Updates the Texas Controlled Substance Act (Health & Safety Code Ch. 481) to include a defense to prosecution related to possession of a controlled substance¹ during a 911 call involving an overdose. A defense to prosecution is what is called an "affirmative defense," meaning that if there are controlled substances involved, you must prove that you meet the criteria listed below in order to avoid legal punishment.

The defense **is available** to:

A person who is first to call 911 in response to a possible overdose and (1) made the request during an emergency, (2) stayed on the scene, and (3) cooperated with the people responding

A person who was the victim of a possible overdose, when someone else called 911

The new law does **not** keep people from being charged with another crime or keep out other evidence that police may have gathered after responding to a 911 call for an overdose.

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The defense is **not available** if:

The person who called was already being arrested or police had a search warrant and a search was happening

The person is committing another crime, other than crimes related to possession, use, or intent to use certain controlled substances or paraphernalia

The person was previously convicted or put on probation for a drug charge

The person has already used the Good Samaritan law to avoid a criminal sentence

The person had called 911 for a possible overdose sometime in the last 18 months

¹This includes possession of: < 20 units of a substance in Penalty Group 1-A (includes LSD, other hallucinogens), < 1 g of a substance in Penalty Group 2 (other hallucinogens, including ibogaine and mescaline), < 4 oz of a substance in Penalty Group 2-A (includes various synthetic cannabinoids), < 28 g of a substance in Penalty Group 3 (includes opioids and opiates not listed in Group 1, also benzodiazepenes, Valium, Ritalin, etc.), < 28 g of a substance in Penalty Group 4 (includes opioids and opiates not listed in other groups, also certain other prescription medications, etc.), < 4 oz of marijuana, a controlled substance listed in a schedule but not listed in a penalty group, drug paraphernalia, a dangerous drug not obtained from a pharmacist or prescribing practitioner ("dangerous drug" is defined in Ch. 483 and is basically a drug unsafe for self-medication that is not listed in schedules or penalty groups in Ch. 481), or an abusable volatile chemical with intent to inhale, ingest, etc.