

LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

GOOD SAMARITAN FATAL OVERDOSE PREVENTION AND DRUG-INDUCED HOMICIDE: STATE LAWS

DECEMBER 2021



LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

This project was supported by Grant No. G21990NDCP03A awarded by the Office of National Drug Control Policy. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the Office of National Drug Control Policy or the United States Government.

© 2021 Legislative Analysis and
Public Policy Association.

This document is intended for informational purposes only and does not constitute legal advice or opinion. For questions about this document or the information contained herein, please contact LAPPA via email at info@thelappa.org.

GOOD SAMARITAN FATAL OVERDOSE PREVENTION AND DRUG-INDUCED HOMICIDE: STATE LAWS

TABLE OF CONTENTS

<u>STATE</u>	<u>PAGE</u>
SUMMARY.....	3
ALABAMA.....	16
ALASKA.....	18
ARIZONA.....	20
ARKANSAS.....	22
CALIFORNIA.....	24
COLORADO.....	26
CONNECTICUT.....	29
DELAWARE.....	31
DISTRICT OF COLUMBIA.....	33
FLORIDA.....	35
GEORGIA.....	37
HAWAII.....	39
IDAHO.....	41
ILLINOIS.....	42
INDIANA.....	46
IOWA.....	49
KANSAS.....	51
KENTUCKY.....	52
LOUISIANA.....	54
MAINE.....	56
MARYLAND.....	58
MASSACHUSETTS.....	60
MICHIGAN.....	61
MINNESOTA.....	63

MISSISSIPPI.....	65
MISSOURI	67
MONTANA	69
NEBRASKA	71
NEVADA	73
NEW HAMPSHIRE	75
NEW JERSEY	77
NEW MEXICO.....	79
NEW YORK.....	81
NORTH CAROLINA.....	83
NORTH DAKOTA.....	85
OHIO.....	87
OKLAHOMA.....	90
OREGON	92
PENNSYLVANIA.....	94
RHODE ISLAND	97
SOUTH CAROLINA.....	99
SOUTH DAKOTA	101
TENNESSEE.....	103
TEXAS	105
UTAH	107
VERMONT	109
VIRGINIA	111
WASHINGTON.....	113
WEST VIRGINIA.....	115
WISCONSIN	117
WYOMING.....	119
AMERICAN SAMOA.....	120
GUAM.....	121
NORTHERN MARIANA ISLANDS	122
PUERTO RICO.....	123
U.S. VIRGIN ISLANDS.....	124

SUMMARY

The chance of surviving a drug overdose is dependent on how quickly one receives medical assistance.¹ However, research indicates that there is often a reluctance among those witnessing an overdose to summon emergency assistance from law enforcement or other first responders out of fear of arrest for drug possession or other charges.² In an effort to reduce this fear and to encourage overdose witnesses to seek help, state policymakers developed Good Samaritan laws specific to drug overdoses (hereafter called “Good Samaritan fatal overdose prevention laws”).³ The purpose of these laws is to prioritize the overdose victim’s safety over arresting drug users by granting limited protection from criminal liability to persons seeking medical assistance and, in most cases, to the overdose victim. New Mexico enacted the first Good Samaritan fatal overdose prevention law in 2007.

The Legislative Analysis and Public Policy Association (LAPPA) recently undertook an extensive research project to determine the status of Good Samaritan fatal overdose prevention laws throughout the United States, including the District of Columbia and all U.S. territories. As of November 2021, 48 states and the District of Columbia have Good Samaritan fatal overdose prevention laws. Only Kansas and Wyoming do not have such laws. Additionally, no U.S. territory has a Good Samaritan fatal overdose prevention law in place.

The results of this research project are presented in this document. Starting on page 16, LAPPA provides jurisdiction-by-jurisdiction tables describing many aspects of each Good Samaritan fatal overdose prevention law currently in effect. The detailed aspects of these laws include:

- Statutory citation;
- Initial effective date;
- Date and content of subsequent substantive amendment(s) (if any);
- Individual(s) eligible for the Good Samaritan protection;
- Protections afforded as to crimes related to: (1) controlled substance possession; (2) drug paraphernalia; and (3) other violations;
- Requirements for the protections to apply and exceptions to protection;
- Whether reporting an overdose can serve as a mitigating factor for crimes not subject to the protection, and if so, which types of crimes;
- Other provisions of note; and
- Relevant legislation introduced, but not enacted, in 2020 or 2021.

In addition to detailing Good Samaritan fatal overdose prevention laws, as part of this project, LAPPA researched the current status of drug-induced homicide/drug delivery resulting in death laws (hereafter called “DIH/DDRD laws”). DIH/DDRD refers to types of laws that

¹ “Good Samaritan fatal overdose prevention laws,” *Drug Policy Alliance*, last accessed June 26, 2020, <https://www.drugpolicy.org/issues/good-samaritan-fatal-overdose-prevention-laws>.

² “911 Good Samaritan laws,” *Shatterproof*, last accessed June 26, 2020, <https://www.shatterproof.org/advocacy/state-by-state-information/good-samaritan-laws>.

³ “Drug Overdose Immunity and Good Samaritan Laws,” *National Conference of State Legislatures*, June 5, 2017, <https://www.ncsl.org/research/civil-and-criminal-justice/drug-overdose-immunity-good-samaritan-laws.aspx>.

establish a specific criminal charge, often manslaughter or murder, for individuals who furnish or deliver controlled substances to another individual who dies as a result.⁴ Reports suggest that DIH/DDRD prosecutions are on the rise in recent years, in response to the continuing drug overdose crisis in the country.⁵ Certainly, there is tension between Good Samaritan fatal overdose prevention and DIH/DDRD laws. An ongoing policy debate exists about whether the use, or potential use, of DIH/DDRD laws against those who might report an overdose negates the encouragement to report such an incident provided by Good Samaritan protections. The jurisdiction-by-jurisdiction tables in this document provide details about the following aspects of DIH/DDRD laws:

- Statutory citation(s);
- Effective date and last amendment;
- Classification of offense;
- Circumstances when law applies;
- Whether a specified affirmative defense exists; and
- Relevant legislation introduced, but not enacted, in 2020 or 2021.

LAPPA designed this document to: (1) provide a singular resource for each jurisdiction's laws; (2) allow for a comparison of these laws between jurisdictions; and (3) identify and highlight interesting provisions. The primary conclusions from the research and analysis are set forth below, followed by several maps showing many of the results in graphic form (Figures 1 to 11).⁶

- The enactment of Good Samaritan fatal overdose prevention laws is a recent phenomenon. Over half of the existing 49 laws in effect in the United States first took effect on or after January 1, 2015.
- Nineteen jurisdictions substantively amended their Good Samaritan fatal overdose prevention laws one or more times since initial enactment, largely to expand the protection afforded to eligible persons. The first substantive amendments took place in 2014, and the latest in 2021. These 19 jurisdictions are (in alphabetical order): Colorado, Connecticut, the District of Columbia, Florida, Illinois, Maryland, Michigan, Mississippi, Montana, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Rhode Island, Utah, Vermont, Virginia, and Wisconsin.⁷

⁴ "Drug-induced homicide laws," *Prescription Drug Abuse Policy System*, last updated January 1, 2019, <http://www.pdaps.org/datasets/drug-induced-homicide-1529945480-1549313265-1559075032>.

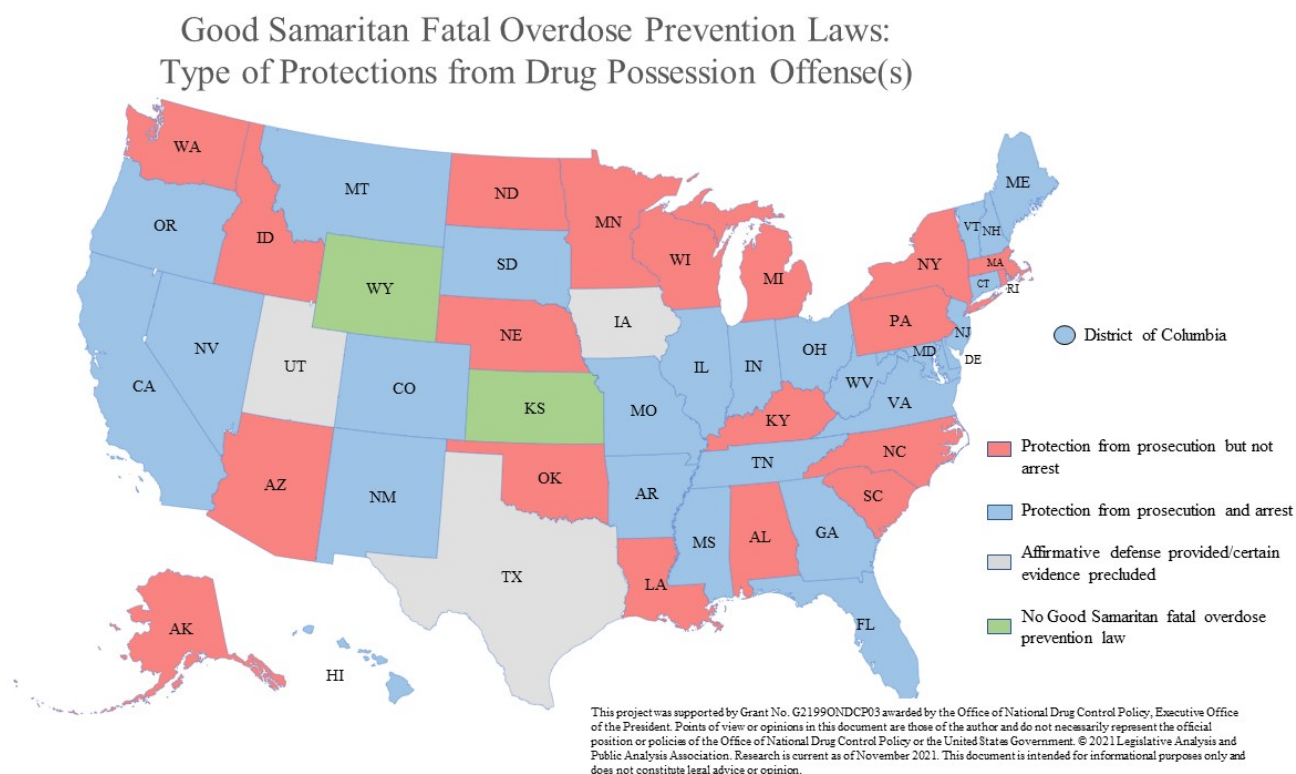
⁵ "Drug-induced homicide," *Health in Justice Action Lab-Northeastern University School of Law*, last accessed July 1, 2020, <https://www.healthinjustice.org/drug-induced-homicide>.

⁶ The goal of this research document is to provide accurate and complete information that is free of omissions. If you believe that this document contains misinformation or errors, please email LAPPA at info@thelappa.org.

⁷ In Wisconsin's case, a sunset provision effective August 1, 2020, repealed additional protections added to the law in 2017.

- The nature of the protection provided by Good Samaritan fatal overdose prevention laws differs by jurisdiction. This analysis groups the protections afforded into three categories of crimes: (1) possession of controlled substances; (2) possession of drug paraphernalia; and (3) other violations.
- All Good Samaritan fatal overdose prevention laws provide some level of protection for low-level drug possession offenses. In all but three states, an eligible person is explicitly protected against one or more of the arrest, charge, prosecution, or conviction of the drug possession offense(s). The three exceptions are Iowa, Texas, and Utah. In Texas and Utah, the statute provides an affirmative defense to an allegation of violation.⁸ In Iowa, the statute precludes the use of certain information gathered in response to a call for medical assistance to be used to support probable cause or be admitted into evidence. Each of the remaining 46 jurisdictions explicitly provide protection against prosecution, with some variation in how that is expressed in language. Slightly over half of the jurisdictions with laws (24 states and the District of Columbia) explicitly provide protection against arrest or being taken into custody. (Figure 1). Four states (Colorado, Florida, Illinois, and Virginia) added protection to arrest to their originally enacted laws by amendment.

Figure 1

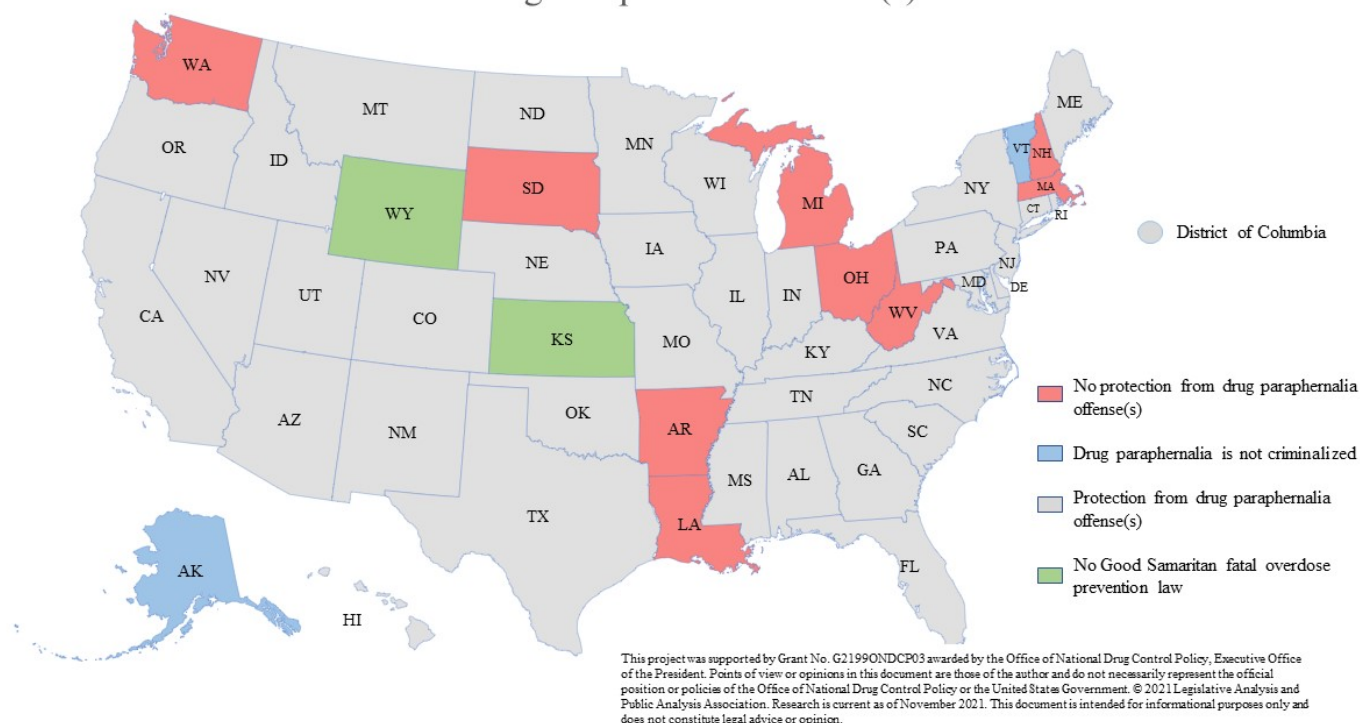


⁸ As originally enacted in 2015, Virginia's law provided an affirmative defense. Virginia law now provides protection from arrest or prosecution.

- In most cases, the nature of the protection provided to an eligible person under the jurisdiction's Good Samaritan fatal overdose prevention law for drug possession extends to possession of drug paraphernalia. In 11 states, this is not the case. In two states (Alaska and Vermont), this is because possession of drug paraphernalia is not a crime. In the remaining nine states, however, possession of drug paraphernalia is not an offense eligible for protection. (Figure 2). Three states (Florida, Illinois, and New Mexico) added protection against drug paraphernalia offenses to the originally enacted law by amendment.

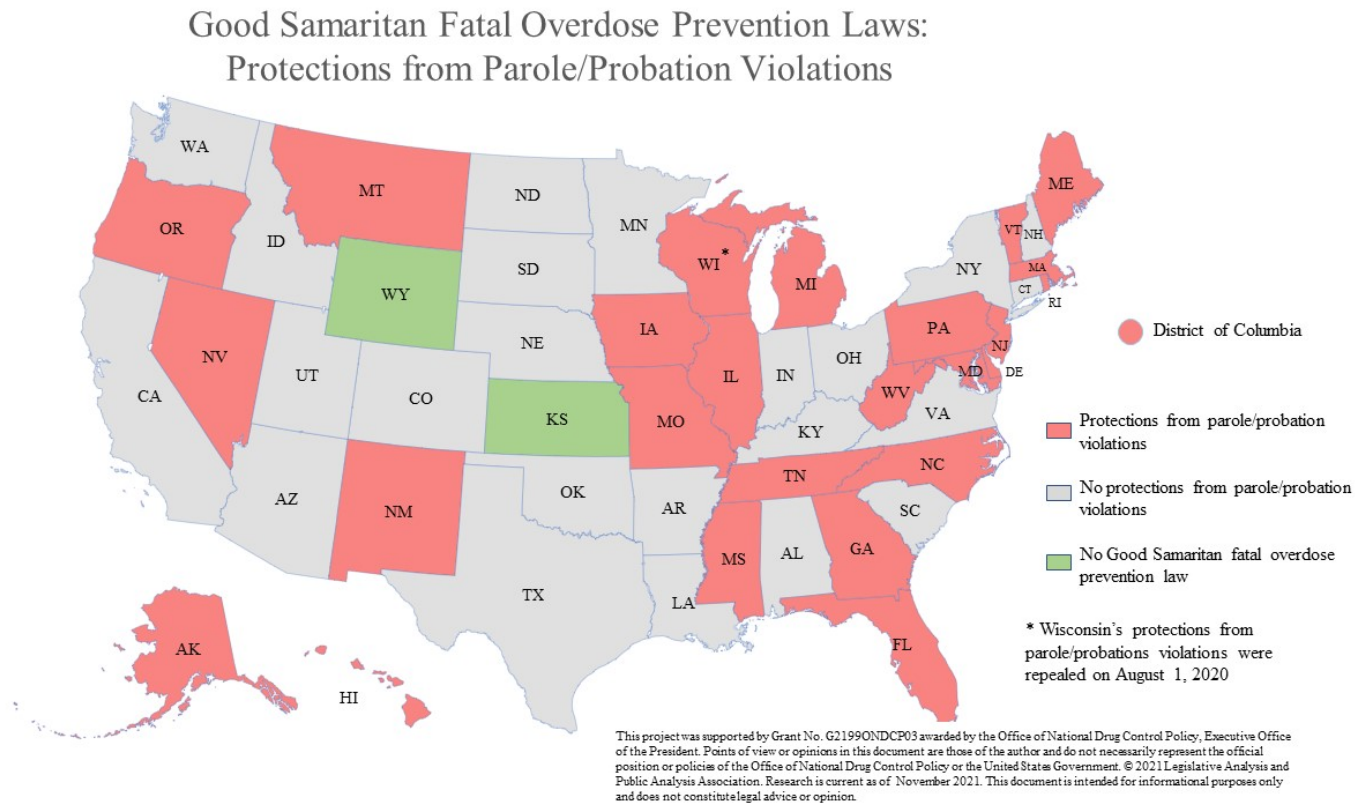
Figure 2

Good Samaritan Fatal Overdose Prevention Laws: Protections from Drug Paraphernalia Offense(s)

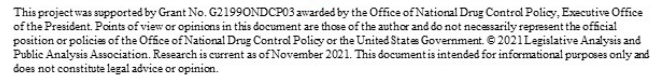


- Some Good Samaritan fatal overdose prevention laws provide broader protections for eligible persons than just possession of drugs and drug paraphernalia. The most common of these additional protections are for probation and parole violations (25 states and the District of Columbia) (Figure 3), certain underage alcohol offenses (13 states and the District of Columbia) (Figure 4), and violations of protective orders (10 states) (Figure 5).

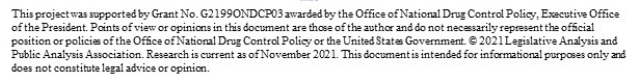
Figure 3



Good Samaritan Fatal Overdose Prevention Laws: Protections from Underage Alcohol Offense(s)



Good Samaritan Fatal Overdose Prevention Laws: Protections from Protective Order Violations



- Figure 6

The map displays the following law categories by state:

- Red states (Protection only covers individuals seeking medical assistance for another):** Wisconsin (WI), Indiana (IN), Oklahoma (OK), Alabama (AL).
- Green states (No Good Samaritan fatal overdose prevention law):** Wyoming (WY), Kansas (KS).
- All other states (Protections for both the overdose victim and the individual seeking medical assistance for another):** Washington (WA), Oregon (OR), Idaho (ID), Montana (MT), North Dakota (ND), Minnesota (MN), South Dakota (SD), Nebraska (NE), Iowa (IA), Missouri (MO), Arkansas (AR), Louisiana (LA), Texas (TX), New Mexico (NM), Arizona (AZ), Nevada (NV), California (CA), Utah (UT), Colorado (CO), New Jersey (NJ), Delaware (DE), Maryland (MD), Pennsylvania (PA), New York (NY), Vermont (VT), New Hampshire (NH), Maine (ME), Massachusetts (MA), Connecticut (CT), Rhode Island (RI), New Brunswick (NJ), Virginia (VA), West Virginia (WV), Kentucky (KY), Tennessee (TN), Mississippi (MS), Georgia (GA), South Carolina (SC), North Carolina (NC), Florida (FL), Alaska (AK), Hawaii (HI).

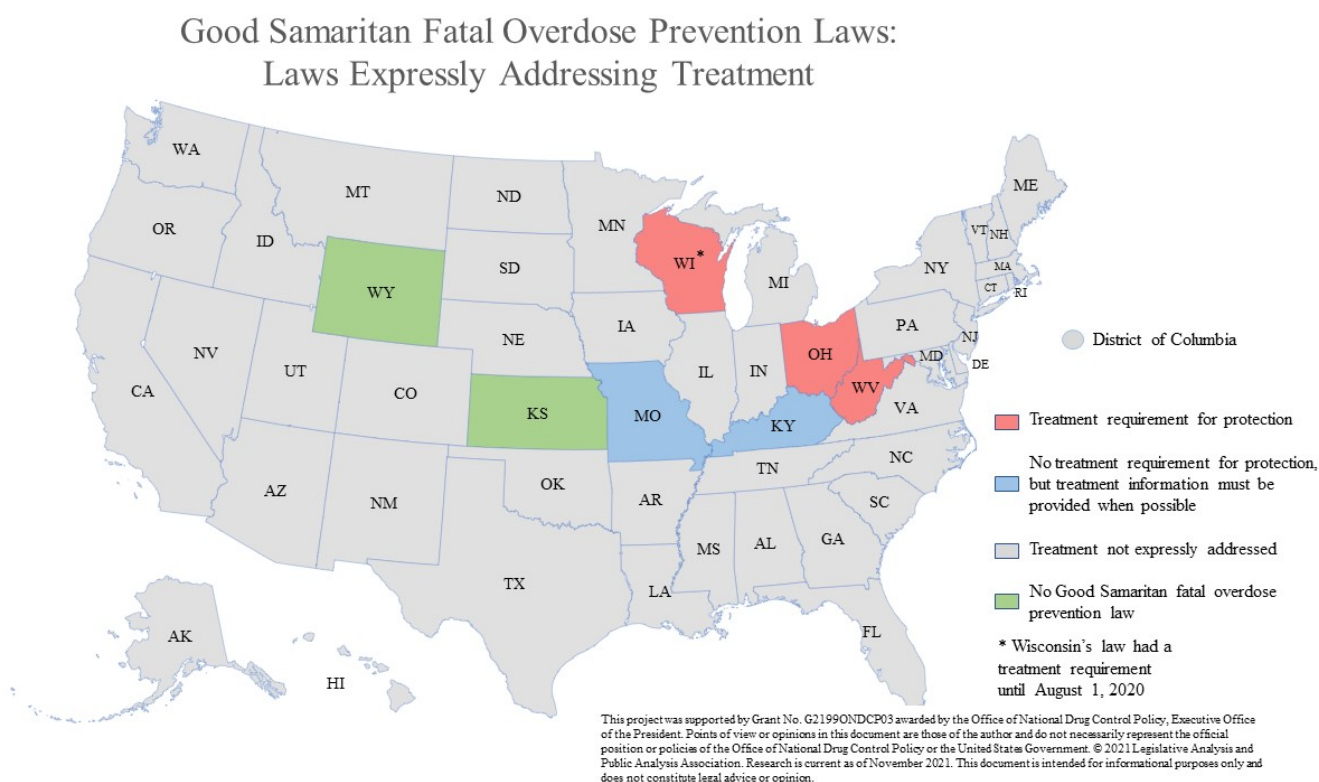
* Wisconsin's law covers the person suffering the overdose until August 1, 2020.

This project was supported by Grant No. G21990NDCP03 awarded by the Office of National Drug Control Policy, Executive Office of the President. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the Office of National Drug Control Policy or the United States Government. © 2021 Legislative Analysis and Public Analysis Association. Research is current as of November 2021. This document is intended for informational purposes only and does not constitute legal advice or opinion.

[Return to Table of Contents](#)

- In two states (Ohio and West Virginia¹⁰), there are specific treatment requirements that the eligible individual must meet to receive protection from the Good Samaritan fatal overdose prevention law. In two different states (Kentucky and Missouri), there are no treatment requirements for protection, but the law requires, when possible, that treatment information be provided to the eligible individual (Figure 7).

Figure 7

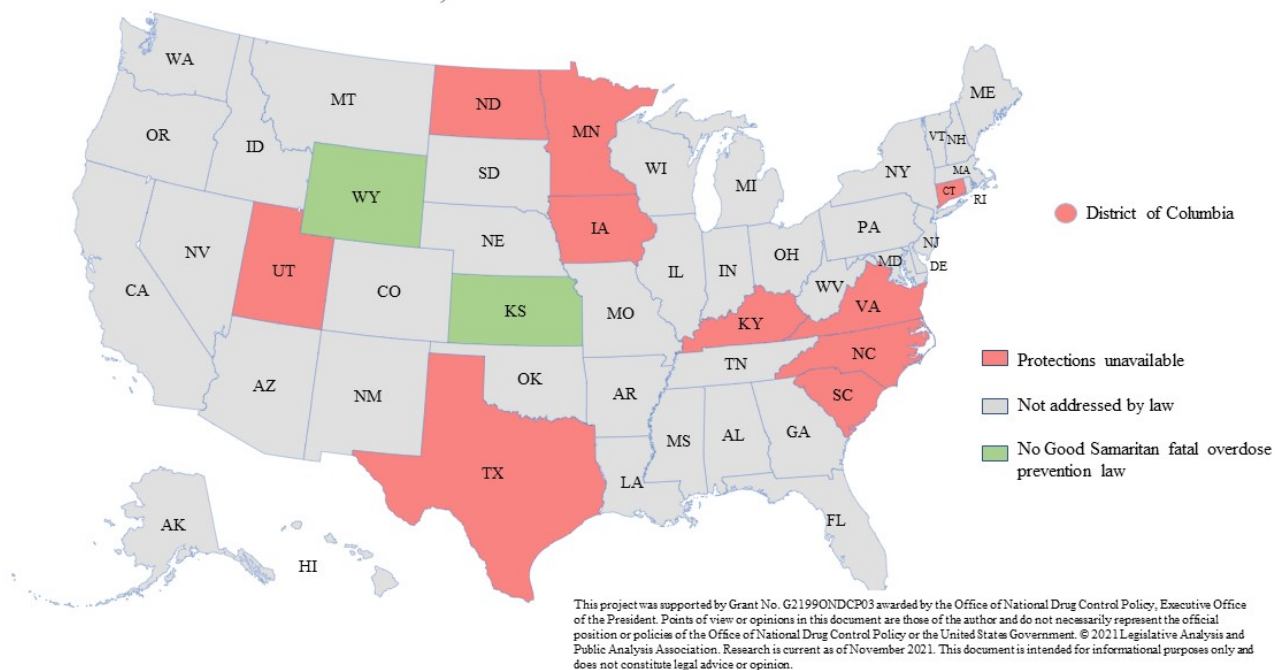


¹⁰ Wisconsin previously had a treatment requirement, but it was repealed on August 1, 2020.

- In order to be eligible for protections, state Good Samaritan fatal overdose prevention laws set forth requirements that must be met in order for the protections to apply. These laws often require the individual to report the overdose in “good faith.” In 10 states and the District of Columbia, “good faith” does not include seeking medical assistance during the execution of an arrest warrant, search warrant, or a lawful search (Figure 8). Other requirements to receive protections frequently include remaining on the scene until help arrives and cooperating with emergency personnel.

Figure 8

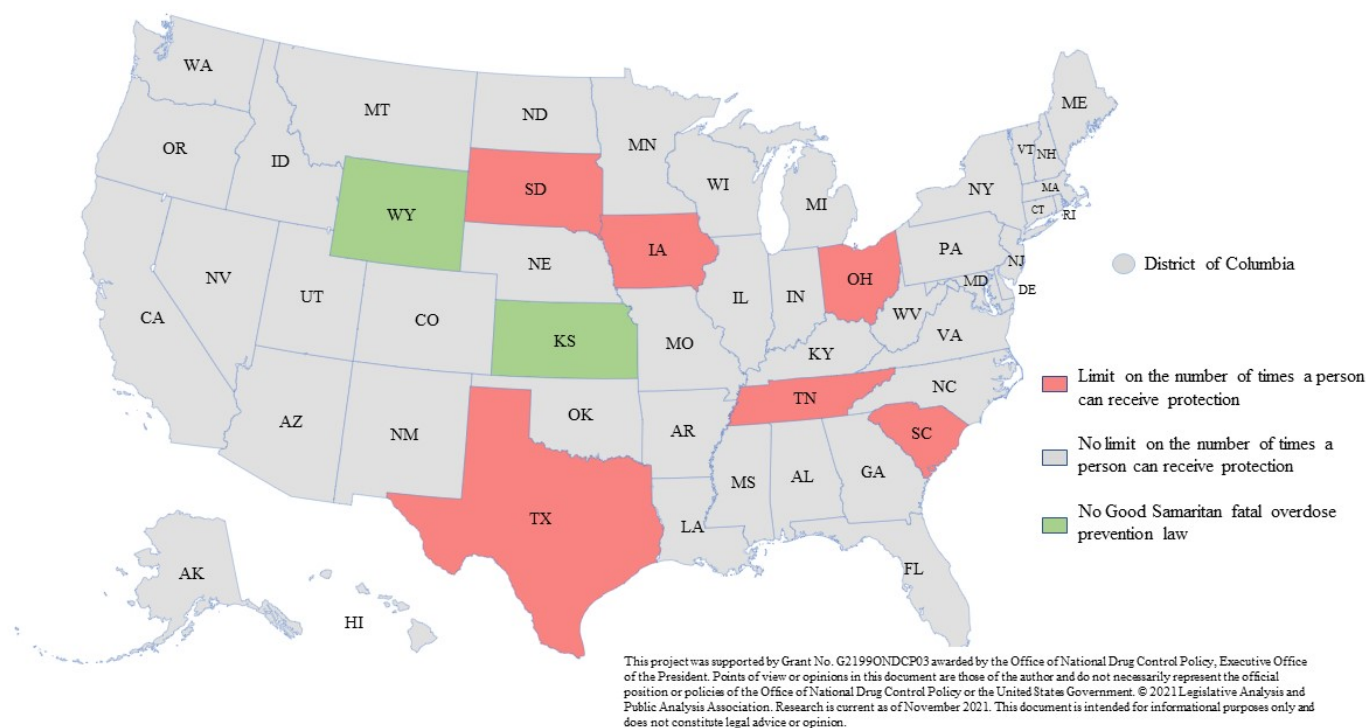
Good Samaritan Fatal Overdose Prevention Laws:
Availability of Protections During the Execution of an Arrest Warrant, Search
Warrant, or Lawful Search



- Several state laws contain exceptions to protection. Six states (Iowa, Ohio, South Carolina, South Dakota, Tennessee, and Texas) place limits on the number of times a person can receive protection under the Good Samaritan fatal overdose prevention law (Figure 9). A total of 29 states and the District of Columbia explicitly specify in their laws that immunity for covered offenses is not grounds for suppression of evidence of other crimes. This lack of such a specification does not mean that evidence of other crimes is subject to suppression in the remaining states; rather, only that those states do not clearly address the issue in statute.

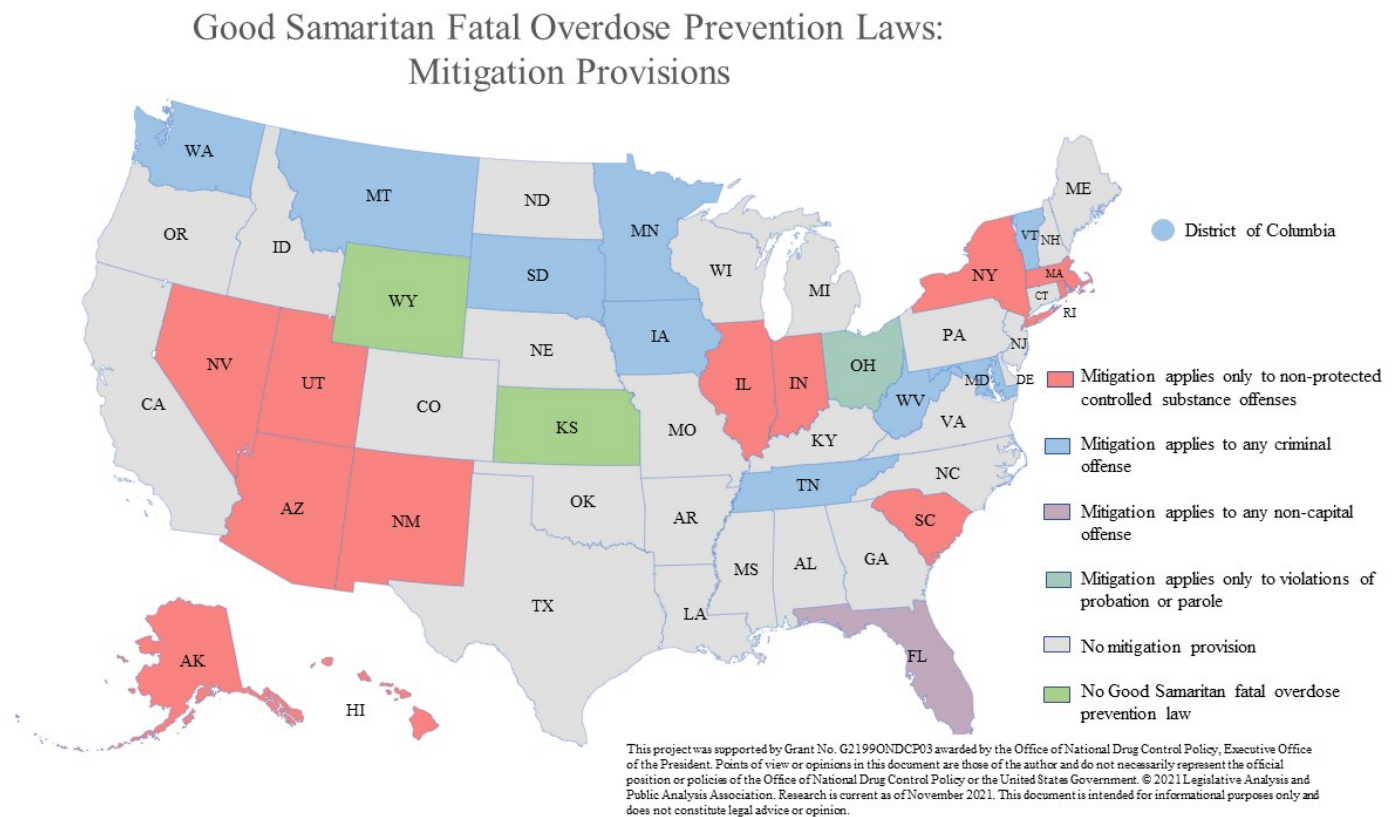
Figure 9

Good Samaritan Fatal Overdose Prevention Laws: Limitations on Number of Times a Person Can Receive Protections



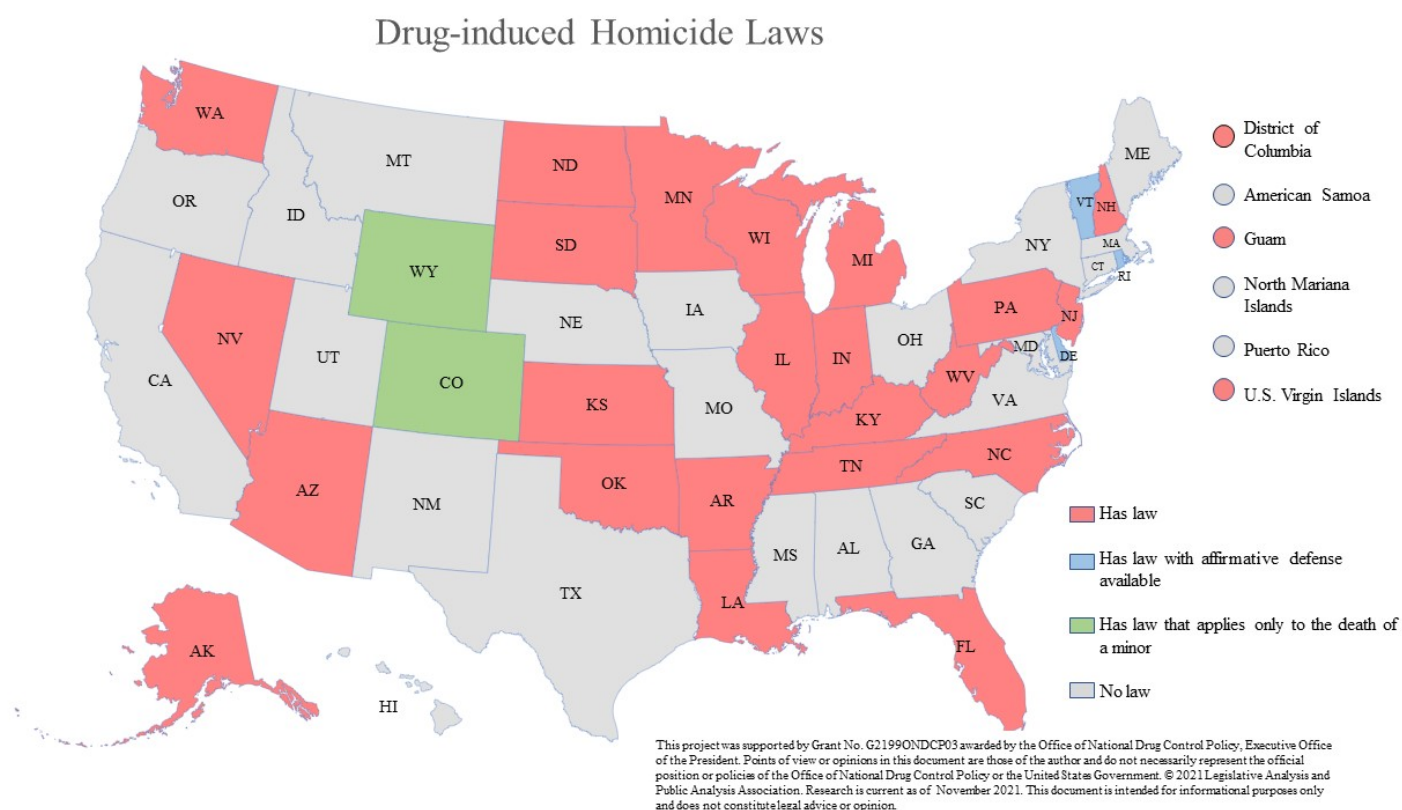
- In cases where individuals summon medical assistance for an overdose victim but allegedly commit a crime for which protection is not offered, 23 states and the District of Columbia specifically provide that summoning emergency assistance is a mitigating factor to be considered at sentencing. The criminal offenses to which the mitigation may apply varies among states, involving only violations of probation or parole (Ohio), only controlled substance or drug offenses (12 states), any criminal prosecution or offense (nine states and the District of Columbia), and any non-capital felony offense (Florida) (Figure 10).

Figure 10



- Currently, 27 states, the District of Columbia, Guam, and the U.S. Virgin Islands have an express DIH/DDRDL law that could be used to charge someone who delivers a drug that results in an accidental overdose death. The classification of the DIH/DDRDL offense varies by state, with examples including manslaughter, classified felony, reckless homicide, and murder. In two states (Colorado and Wyoming), the DIH/DDRDL law is limited to the death of a person under the age of 18 (Figure 11).
- The laws of three states (Delaware, Rhode Island, and Vermont) make a good faith effort to promptly seek, provide, or obtain emergency medical or law enforcement assistance for another person who is experiencing an overdose an affirmative defense to their DIH/DDRDL law. In the case of Vermont, the crimes eligible for protection under the Good Samaritan fatal overdose prevention law include the state's DIH/DDRDL provision.

Figure 11



- Figure 12

The map displays the following legislative status by state:

- Proposed legislation- DIH/DDRD law (Red):** WA, OR, ND*, WV, VA*, SC, FL.
- Proposed legislation- Good Samaritan fatal overdose prevention law (Blue):** UT*, NY*, CT*, RI, ME, VT, NH, MA, NJ, DE, PA, MD.
- Proposed legislation- both (Green):** IL*, LA, GA.
- No proposed legislation (Grey):** MT, ID, WY, SD, MN, WI, MI, IN, OH, KY, TN, NC, OK, AR, MS, AL, TX, NM, AZ, NV, CA, AK, HI.

* Some or all of the proposed legislation enacted

This project was supported by Grant No. G2199NDCP03 awarded by the Office of National Drug Control Policy, Executive Office of the President. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the Office of National Drug Control Policy or the United States Government. © 2021 Legislative Analysis and Public Analysis Association. Research is current as of November 2021. This document is intended for informational purposes only and does not constitute legal advice or opinion.

<u>ALABAMA</u>	
Statute(s) and initial effective date(s)	ALA. CODE § 20-2-281 (West 2021) (eff. June 5, 2015).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	An individual ¹¹ seeking medical assistance for another individual under Article 13 (“Opioid Antagonist Administration”). Despite the reference to seeking medical assistance for another “under this article,” the explicit requirements for the protection to apply do not include administration of naloxone.
Protection as to controlled substance possession crimes	An eligible individual may not be prosecuted ¹² for a misdemeanor controlled substance offense.
Protection as to drug paraphernalia crimes	Misdemeanor controlled substance offense can include drug paraphernalia offenses (ALA. CODE. § 13A-12-260 (West 2021)).
Protection as to other crimes/violations	An eligible individual may not be prosecuted for underage possession or consumption of an alcoholic beverage.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Law enforcement became aware of the offense solely because the individual was seeking medical assistance for another. • Individual acted in good faith, upon a reasonable belief that he or she was the first to call for assistance. • Individual used his/her own name when contacting authorities. • Individual remained with the individual needing medical assistance until help arrived.
Exception(s) to protection	Protection does not extend to prosecution for driving while under the influence of alcohol or controlled substances (ALA. CODE § 32-5A-191).
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.

¹¹ State laws vary in how the relevant actor or actors are described (*e.g.*, “individual,” “person,” or “defendant”). Within this document, the word used in the description of a particular state law is the word found in the statutory provision(s) at issue.

¹² State laws vary in their description of the Good Samaritan protection (*e.g.*, “may not be prosecuted” or “immune from arrest and prosecution”). Within this document, the phrase used in the description of a particular state law is the phrase found in the statutory provision(s) at issue.

<u>ALABAMA</u>	
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>ALASKA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • ALASKA STAT. ANN. § 11.71.311 (West 2021) (eff. Oct. 8, 2014) (Good Samaritan protections). • ALASKA STAT. ANN. § 12.55.155(d)(19) (West 2021) (eff. Sept. 8, 2008) (mitigating factors in sentencing).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who in good faith sought medical or law enforcement assistance for another person who he or she reasonably believed was experiencing a drug overdose. • Person experiencing a drug overdose who sought medical assistance. <p>The law defines the phrase “drug overdose” as involving a controlled substance-induced event.</p>
Protection as to controlled substance possession crimes	<p>An eligible person may not be prosecuted for:</p> <ul style="list-style-type: none"> • Certain misconduct involving a controlled substance in the fourth degree (ALASKA STAT. ANN. § 11.71.040(a)(3), (4), or (12)); • Certain misconduct involving a controlled substance in the fifth degree (ALASKA STAT. ANN. § 11.71.050(a)(4) or (5)); or • Certain misconduct involving a controlled substance in the sixth degree (ALASKA STAT. ANN. § 11.71.060(a)(1) or (2)).
Protection as to drug paraphernalia crimes	None (possession of drug paraphernalia is not a crime in Alaska).
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Evidence supporting the prosecution for the offense was obtained or discovered as a result of the person seeking medical or law enforcement assistance. • Person cooperated with medical or law enforcement personnel, including by providing identification. • Person seeking assistance for another remained at the scene until help arrived.
Exception(s) to protection	None.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Offenses related to controlled substances.

<u>ALASKA</u>	
Circumstance(s) when mitigation applies	Defendant sought medical assistance for another person who was experiencing a drug overdose contemporaneously with the commission of the offense.
Other provisions of note	None.
Express DIH or DDRD provision in state law	ALASKA STAT. ANN. § 11.41.120(a)(3) (West 2021) (eff. June 3, 2006).
Classification of DIH/DDRDR offense	Manslaughter.
Circumstance(s) when DIH/DRDD applies	Person knowingly manufactures or delivers a controlled substance in violation of ALASKA STAT. ANN. §§ 11.71.010 to 71.030 (West 2021) or ALASKA STAT. ANN. § 11.71.040(a)(1) (West 2021) and a person dies as a direct result of ingestion of the controlled substance.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>ARIZONA</u>	
Statute(s) and initial effective date(s)	ARIZ. REV. STAT. ANN. § 13-3423 (West 2021) (eff. April 26, 2018).
Substantive amendments to law(s)	Pursuant to the enacting legislation, the statute is subject to a sunset provision repealing it on July 1, 2023.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who in good faith seeks medical assistance for someone experiencing a drug-related overdose. • Person who is experiencing a drug-related overdose, who is in need of medical assistance, and for whom assistance is sought. <p>The law defines the phrases “medical assistance” and “seeks medical assistance.”</p>
Protection as to controlled substance possession crimes	An eligible person may not be charged or prosecuted for the possession or use of a controlled substance (or a preparatory offense, in the case of a person seeking medical assistance for another).
Protection as to drug paraphernalia crimes	An eligible person may not be charged or prosecuted for the possession or use of drug paraphernalia (or a preparatory offense, in the case of a person seeking medical assistance for another).
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	Evidence for the violation was gained as a result of the need for medical assistance.
Exception(s) to protection	<p>The existence of the protection does not limit:</p> <ul style="list-style-type: none"> • Admissibility of any evidence in connection with the investigation or prosecution of a crime or person not falling under the scope of the statute; or • Ability to seize contraband or arrest for any other offense.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Criminal prosecution for a violation of Title 13, Chapter 34 (“Drug Offenses”).
Circumstance(s) when mitigation applies	When a person sought medical assistance for someone who was experiencing a drug-related overdose.
Other provisions of note	The existence of the protection does not prohibit an eligible person from being offered a diversion program for an offense other than the possession or use of a controlled substance or drug paraphernalia or a preparatory offense.
Express DIH or DDRD provision in state law	ARIZ. REV. STAT. ANN. § 13-1105(A)(2) (West 2021) (eff. as amended September 30, 2009).

<u>ARIZONA</u>	
Classification of DIH/DDRD offense	First degree murder.
Circumstance(s) when DIH/DRDD applies	<p>A person commits or attempts to commit one of the following offenses and, in the course of it, the person or another person causes the death of any person:</p> <ul style="list-style-type: none">• Transportation of marijuana (ARIZ. REV. STAT. ANN. § 13-3405(A)(4) (West 2021));• Manufacturing or transportation of dangerous drugs (ARIZ. REV. STAT. ANN. § 13-3407(A)(4), (7) (West 2021));• Transportation of narcotic drugs (ARIZ. REV. STAT. ANN. § 13-3408(A)(7) (West 2021)); or• Involving or using minors in drug offenses (ARIZ. REV. STAT. ANN. § 13-3409 (West 2021)).
Affirmative defense of DIH/DDRD offense	None.
Recently proposed legislation	None.

<u>ARKANSAS</u>	
Statute(s) and initial effective date(s)	ARK. CODE ANN. §§ 20-13-1701 to 20-13-1705 (West 2021) (eff. July 22, 2015).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who in good faith seeks medical assistance for another person who is experiencing a drug overdose. • Person who is experiencing a drug overdose and in good faith seeks medical assistance for himself or herself. <p>The law defines the phrases “drug overdose,” “medical assistance,” and “seeks medical assistance.” A “drug overdose” is a condition caused by the use of alcohol, a controlled substance, a dangerous drug, or a combination of these.</p>
Protection as to controlled substance possession crimes	An eligible person may not be arrested, charged, or prosecuted for possession of a controlled substance (under ARK. CODE ANN. § 5-64-419 (West 2021)).
Protection as to drug paraphernalia crimes	None.
Protection as to other crimes/violations	<p>An eligible person may not be subject to the following penalties based on the possession of a controlled substance:</p> <ul style="list-style-type: none"> • Violation of a permanent or temporary protective order or restraining order; or • Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole.
Requirement(s) for the protection to apply	Evidence for the arrest, charge, or prosecution of the possession of a controlled substance must have resulted solely from seeking medical assistance.
Exception(s) to protection	<p>The existence of the protection does not limit:</p> <ul style="list-style-type: none"> • Admissibility of any evidence in connection with the investigation or prosecution of a crime or a person that does not fall under the scope of the protection; • Any seizure of evidence or contraband otherwise permitted; or • 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 not falling under the protection.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A

<u>ARKANSAS</u>	
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	ARK. CODE ANN. § 5-10-101 (West 2021) (eff. as amended in 1991).
Classification of DIH/DDRDR offense	Capital murder.
Circumstance(s) when DIH/DRDD applies	When a person commits or attempts to commit a felony violation of the Uniform Controlled Substances Act (ARK. CODE ANN. §§ 5-64-101 to 64-508) involving an actual delivery of a controlled substance and, in the course of an in furtherance of the felony or in immediate flight from the felony, the person or an accomplice causes the death of a person under circumstances manifesting extreme indifference to the value of human life.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>CALIFORNIA</u>	
Statute(s) and initial effective date(s)	CAL. HEALTH & SAFETY CODE § 11376.5 (West 2021) (eff. Jan. 1, 2013).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who in good faith seeks medical assistance for another person experiencing a drug-related overdose. • Person who experiences a drug-related overdose and who is in need of medical assistance, if the person or one or more other persons at the scene of the overdose, in good faith, seek medical assistance for the person experiencing the overdose. <p>The law defines the phrase “drug-related overdose” as a condition that results from the use of one or more controlled substances or one or more controlled substances in combination with alcohol.</p>
Protection as to controlled substance possession crimes	It is not a crime for an eligible person to be under the influence of, or possess for personal use, a controlled substance or controlled substance analog.
Protection as to drug paraphernalia crimes	It is not a crime for an eligible person to possess drug paraphernalia for personal use.
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Overdose must be related to the possession of a controlled substance, controlled substance analog, or drug paraphernalia of the person seeking medical assistance. • Person seeking assistance for another must not obstruct medical or law enforcement personnel.
Exception(s) to protection	<p>The existence of the protection does not affect:</p> <ul style="list-style-type: none"> • Laws prohibiting the selling, providing, giving, or exchanging of drugs or laws prohibiting the forcible administration of drugs against someone’s will; or • Liability for any offense that involves activities made dangerous by the consumption of a controlled substance or a controlled substance analog, including, but not limited to, reckless driving (CAL. VEHICLE CODE § 23103 (West 2021)), driving under the influence (CAL. VEHICLE CODE § 23152 (West 2021)), or driving under the influence and causing bodily injury (CAL. VEHICLE CODE § 23153 (West 2021)).
Reporting overdose a mitigating factor in sentencing	No.

<u>CALIFORNIA</u>	
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>COLORADO</u>	
Statute(s) and initial effective date(s)	COLO. REV. STAT. ANN. § 18-1-711 (West 2021) (eff. May 29, 2012)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • June 6, 2014 - Immunity with respect to: (1) illegal possession or consumption of marijuana by an underage person; and (2) illegal possession of marijuana paraphernalia by an underage person added. • August 10, 2016 – Immunity for arrest added.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who reports in good faith an emergency drug or alcohol overdose event to a law enforcement officer, to the 911 system, or to a medical provider. • Person who suffered an emergency drug or alcohol overdose (if there is a person who reports the event and all requirements placed on the reporter are satisfied). <p>The law defines the phrase “emergency drug or alcohol overdose event” as a condition resulting from the use of a controlled substance, alcohol, or a substance combined with one of these.</p>
Protection as to controlled substance possession crimes	<p>An eligible person is immune from arrest and prosecution for the following offenses:</p> <ul style="list-style-type: none"> • Unlawful possession of a controlled substance (COLO. REV. STAT. ANN. § 18-18-403.5(2) (West 2021)); • Unlawful use of a controlled substance (COLO. REV. STAT. ANN. § 18-18-404 (West 2021)); • Unlawful possession of two ounces or less of marijuana (COLO. REV. STAT. ANN. § 18-18-406(5)(a)(I) (West 2021)); or more than two ounces of marijuana but not more than six ounces of marijuana or not more than three ounces of marijuana concentrate (COLO. REV. STAT. ANN. § 18-18-406(4)(c) (West 2021)); or more than six ounces of marijuana, or more than three ounces of marijuana concentrate (COLO. REV. STAT. ANN. § 18-18-406(4)(b) (West 2021)); • Open and public display, consumption, or use of less than two ounces of marijuana (COLO. REV. STAT. ANN. § 18-18-406(5)(b)(I) (West 2021)); • Use or possession of synthetic cannabinoids or salvia divinorum (COLO. REV. STAT. ANN. § 18-18-406.1 (West 2021)); or • Illegal possession or consumption of ethyl alcohol or marijuana by an underage person (COLO. REV. STAT. ANN. § 18-13-122 (West 2021)).

<u>COLORADO</u>	
Protection as to drug paraphernalia crimes	An eligible person is immune from arrest and prosecution for the following offenses: <ul style="list-style-type: none"> • Possession of drug paraphernalia (COLO. REV. STAT. ANN. § 18-18-428 (West 2021)); or • Illegal possession of marijuana paraphernalia by an underage person (COLO. REV. STAT. ANN. § 18-13-122 (West 2021)).
Protection as to other crimes/violations	An eligible person is immune from arrest and prosecution from the offense of transferring or dispensing two ounces or less of marijuana from one person to another for no consideration (COLO. REV. STAT. ANN. § 18-18-406(5)(c) (West 2021)).
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Person who reports remains at the scene of the event until a law enforcement officer or an emergency medical responder arrives, or the person remains at the facilities of the medical provider until a law enforcement officer arrives. • Person who reports identifies himself or herself to, and cooperates with, the law enforcement officer, emergency medical responder, or medical provider. • Offense arises from the same course of events from which the emergency drug or alcohol overdose event arose.
Exception(s) to protection	The existence of the protection does prohibit the prosecution of a person for an offense not covered by the protection or limit the ability of a district attorney or a law enforcement officer to obtain or use evidence obtained from a report, recording, or any other statement provided to investigate and prosecute such an offense.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	COLO. REV. STAT. ANN. § 18-3-102(e) (West 2021) (eff. as amended August 2, 2019).
Classification of DIH/DDRDR offense	First degree murder.

<u>COLORADO</u>	
Circumstance(s) when DIH/DRDD applies	When a person commits unlawful distribution, dispensation, or sale of a controlled substance to a person under age 18 on school grounds as provided in COLO. REV. STAT. ANN § 18-18-407(2) (West 2021) or COLO. REV. STAT. ANN § 18-18-407(1)(g)(I) (West 2021) (for offenses committed on or after October 1, 2013), and the death of such person is caused by the use of such controlled substance.
Affirmative defense of DIH/DDRDD offense	None.
Recently proposed legislation	None.

<u>CONNECTICUT</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • CONN. GEN. STAT. ANN. § 21a-267 (West 2021) (eff. Oct. 1, 2011) (protection as to drug paraphernalia). • CONN. GEN. STAT. ANN. § 21a-279 (West 2021) (eff. Oct. 1, 2011) (protection as to drug possession).
Substantive amendments to law(s)	October 1, 2021 – amendment to CONN. GEN. STAT. ANN. § 21a-279 (West 2021) reduced the protective area for violations occurring near a school or licensed childcare center to 200 feet.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who in good faith seeks medical assistance for another person who is experiencing an overdose from the ingestion, inhalation, or injection of alcohol or any drug or substance. • Person for whom another person, in good faith, seeks medical assistance, reasonably believing such person is experiencing an overdose from the ingestion, inhalation, or injection of intoxicating liquor or any drug or substance. • Person who reasonably believes he or she is experiencing an overdose from the ingestion, inhalation, or injection of alcohol or any drug or substance and, in good faith, seeks medical assistance for himself or herself.
Protection as to controlled substance possession crimes	Provision making the illegal possession of any controlled substance a class A misdemeanor (CONN. GEN. STAT. ANN. § 21a-279(a) (West 2021)) does not apply to an eligible person.
Protection as to drug paraphernalia crimes	Provision making the use or possession with intent to use drug paraphernalia a class C misdemeanor (CONN. GEN. STAT. ANN. § 21a-267(a) (West 2021)) does not apply to an eligible person.
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	Evidence of the use or possession in violation of the penalty must be obtained as a result of the seeking of medical assistance.
Exception(s) to protection	<ul style="list-style-type: none"> • Violations occurring on or within 200 feet: of (1) a public or private elementary or secondary school by a person who is not enrolled as a student in such school; or (2) licensed childcare center do not fall under the protection. • Existence of the protection does not alter the penalty under Connecticut law for the illegal manufacture, distribution, sale, prescription, or administration of illegal drugs by non-drug-dependent person (CONN. GEN. STAT. ANN. § 21a-278 (West 2021)). • “Good faith” does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or a lawful search.

<u>CONNECTICUT</u>	
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>DELAWARE</u>	
Statute(s) and initial effective date(s)	DEL. CODE ANN. tit.16, § 4769 (West 2021) (eff. Aug. 31, 2013).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who is experiencing an overdose or other life-threatening medical emergency. • Anyone seeking medical attention for that person. <p>The law defines the term “overdose” as a condition resulting from alcohol, a controlled substance, another substance with which a controlled substance was combined, a noncontrolled prescription drug, or any combination of these.</p>
Protection as to controlled substance possession crimes	<p>An eligible person may not be arrested, charged, or prosecuted for any offense from which they have received immunity. The immunity applies to all offenses in Chapter 47 (“Uniform Controlled Substances Act”) that are not a class A, B, or C felonies, including but not limited to:</p> <ul style="list-style-type: none"> • Illegal possession and delivery of noncontrolled prescription drugs (DEL. CODE ANN. tit.16, § 4761 (West 2021)); • Possession of controlled substances or counterfeit controlled substances (DEL. CODE ANN. tit.16, § 4763 (West 2021)); • Possession of marijuana (DEL. CODE ANN. tit.16, § 4764 (West 2021)); and • Certain miscellaneous drug crimes (in DEL. CODE ANN. tit.16, § 4767 (West 2021)).
Protection as to drug paraphernalia crimes	<p>An eligible person may not be arrested, charged, or prosecuted for any offense from which they have received immunity. The immunity applies to all offenses in Chapter 47 (“Uniform Controlled Substances Act”) that are not class A, B, or C felonies, including but not limited to the possession of drug paraphernalia (DEL. CODE ANN. tit.16, §§ 4762(c), 4771) (West 2021)).</p>
Protection as to other crimes/violations	<p>An eligible person may not be arrested, charged, or prosecuted for any offense from which they have received immunity. The immunity applies to all offenses in Chapter 47 (“Uniform Controlled Substances Act”) that are not class A, B, or C felonies, including but not limited to:</p> <ul style="list-style-type: none"> • Certain miscellaneous drug crimes (in DEL. CODE ANN. tit.16, § 4767) (West 2021)); and • Offenses relating to underage drinking (DEL. CODE ANN. tit.4, § 904(b), (c), (e), and (f) (West 2021)).

<u>DELAWARE</u>	
Protection as to other crimes/violations (continued)	An eligible person may not be subject to the revocation or modification of the conditions of probation.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Person seeking medical attention reports in good faith the emergency to law enforcement, the 911 system, a poison control center, or a medical provider, or the person in good faith assists someone so reporting. • Person provides all relevant medical information as to the cause of the overdose or other life-threatening medical emergency that the person possesses at the scene of the event when the medical provider arrives, or when the person is at the facilities of the medical provider.
Exception(s) to protection	The existence of the protection does not: (1) prohibit prosecution for an offense other than one for which the immunity applies; or (2) limit law enforcement from obtaining or using evidence obtained to investigate and prosecute an offense not covered by the immunity.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	Forfeiture of any alcohol, substance, or paraphernalia referenced in this section is allowed pursuant to DEL. CODE ANN. tit.16, § 4784 (West 2021).
Express DIH or DDRD provision in state law	DEL. CODE ANN. tit.16, § 4752B (West 2021) (eff. July 21, 2016).
Classification of DIH/DDRDR offense	Class B felony.
Circumstance(s) when DIH/DRDD applies	When a person delivers a Schedule I or II controlled substance in Tier 1 or greater quantity to another person in violation of Chapter 47 (“Uniform Controlled Substances Act”) and the substance thereafter causes the death of another person who uses it.
Affirmative defense of DIH/DDRDR offense	Defendant made a good faith effort to promptly seek, provide, or obtain emergency medical or law enforcement assistance to another person who was experiencing a medical emergency after using a Schedule I or II controlled substance, and whose death would otherwise form the basis for criminal liability.
Recently proposed legislation	None.

<u>DISTRICT OF COLUMBIA</u>	
Statute(s) and initial effective date(s)	D.C. CODE ANN. § 7-403 (West 2021) (eff. Mar. 19, 2013).
Substantive amendments to law(s)	March 16, 2021 – Law amended as follows: (1) persons administering an opioid antagonist and certain bystanders are eligible for GS protection; and (2) allows mitigation to apply to any offense listed, not just those that are drug or alcohol related.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who reasonably believes that he or she is experiencing a drug or alcohol-related overdose and in good faith seeks health care for or administers an opioid antagonist to himself or herself. • Person who reasonably believes that another person is experiencing a drug or alcohol-related overdose and in good faith seeks health care for or administers an opioid antagonist to that person. • Person who is reasonably believed to be experiencing a drug or alcohol-related overdose and for whom health care is sought or to whom an opioid antagonist is administered. • Bystander to a situation described above. <p>The law defines the term “overdose” as a condition resulting from the use of drugs or alcohol.</p>
Protection as to controlled substance possession crimes	With respect to an eligible person, the unlawful possession of a controlled substance (D.C. CODE ANN. § 48-904.01(d) (West 2021)) is not considered a crime.
Protection as to drug paraphernalia crimes	With respect to an eligible person, the unlawful use or possession with intent to use drug paraphernalia (D.C. CODE ANN. § 48-1103(a) (West 2021)) is not considered a crime.
Protection as to other crimes/violations	<p>With respect to an eligible person, the following offenses are not considered crimes:</p> <ul style="list-style-type: none"> • Possession of alcohol by persons under age 21 (D.C. CODE ANN. § 25-1002 (West 2021)); • Provided that the minor is at least age 16 and provider is 25 years of age or younger: <ul style="list-style-type: none"> ○ Purchasing an alcoholic beverage for the purpose of delivering it to a person under 21 years of age (D.C. CODE ANN. § 25-785(a) (West 2021)); ○ Contributing to the delinquency of a minor with regard to possessing or consuming alcohol or, without a prescription, a controlled substance (D.C. CODE ANN. § 22-811(a)(2) (West 2021)); or ○ Sale or delivery of an alcoholic beverage to a person under 21 years of age (D.C. CODE ANN. § 25-781(a)(1) (West 2021)).

<u>DISTRICT OF COLUMBIA</u>	
Protection as to other crimes/violations	An offense not considered a crime may not serve as the sole basis for revoking or modifying a person's supervision status (as that term is defined in the law).
Requirement(s) for the protection to apply	Evidence of an offense must arise from the same circumstances as the seeking of health care.
Exception(s) to protection	<ul style="list-style-type: none"> • Existence of the protection does not prohibit a person from being arrested, charged, or prosecuted, or from having his or her supervision status modified or revoked, based on an offense not covered by the protection, regardless of whether or not it arises from the same set of circumstances. • "Good faith" does not include the seeking of health care as a result of using drugs or alcohol in connection with the execution of an arrest warrant or search warrant or a lawful arrest or search.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Offenses for which no protection is provided.
Circumstance(s) when mitigation applies	Seeking health care for or administering an opioid antagonist to a person reasonably believed to be suffering a drug or alcohol-related overdose.
Other provisions of note	A law enforcement officer who arrests an individual for an offense covered by the protection shall not be subject to criminal prosecution, or civil liability for false arrest or false imprisonment, if the officer made the arrest based on probable cause.
Express DIH or DDRD provision in state law	D.C. CODE ANN. § 22-2101 (West 2021) (eff. Sept. 26, 1992).
Classification of DIH/DDRDR offense	First degree murder.
Circumstance(s) when DIH/DRDD applies	When a person kills another purposely, either by deliberate and premeditated malice or by means of poison, while perpetrating or attempting to perpetrate a felony involving a controlled substance.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	L.B. 416, 2021 Council, Period 24 (D.C. 2021) (public hearing held November 4, 2021). This bill would repeal certain sections and enact a revised criminal code. Included in the repealed sections is D.C. CODE ANN. § 22-2101 (West 2021). Within the new revised criminal code, DIH is not included with the homicide subchapter, nor any other subchapter.

<u>FLORIDA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • FLA. STAT. ANN. § 562.112 (West 2021) (eff. July 1, 2019) (protections as to alcohol-related crimes). • FLA. STAT. ANN. § 893.21 (West 2021) (eff. Oct. 1, 2012) (protections as to drug crimes). • FLA. STAT. ANN. § 921.0026(n) (West 2021) (eff. Oct. 1, 2012) (mitigating factors in sentencing).
Substantive amendments to law(s)	<p>July 1, 2019 – FLA. STAT. ANN. § 893.21 (West 2021) amended as follows:</p> <ul style="list-style-type: none"> • Added protection for arrest in addition to charge and prosecution; • Added protection for use and possession of drug paraphernalia, in addition to possession of a controlled substance; • Added protections for pretrial, probation, and parole conditions; • Added protections for underage possession of alcohol and selling alcohol to an underage person; and • Expanded protection to cover alcohol-related overdose.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose. • Person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and is in need of medical assistance.
Protection as to controlled substance possession crimes	An eligible person may not be arrested, charged, prosecuted, or penalized for the possession of a controlled substance (FLA. STAT. ANN. § 893.13(6) (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person may not be arrested, charged, prosecuted, or penalized for the use or possession of drug paraphernalia (FLA. STAT. ANN. § 893.147(1) (West 2021)).
Protection as to other crimes/violations	<ul style="list-style-type: none"> • Eligible person may not be penalized for a violation of a condition of pretrial release, probation, or parole. • Eligible person may not be arrested, charged, prosecuted, or penalized for a violation of selling alcohol to an underage person (FLA. STAT. ANN. § 562.11 (West 2021)) or underage possession of alcohol (FLA. STAT. ANN. § 562.111 (West 2021)).
Requirement(s) for the protection to apply	Evidence for the offense or violation must have been obtained because of the person seeking medical assistance.
Exception(s) to protection	The protection for possession or use of controlled substance does not apply to the first-degree felony for the possession of more than 10 grams of certain controlled substances (as described in FLA. STAT. ANN. § 893.13(6)(c) (West 2021)).

<u>FLORIDA</u>	
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Any felony offense, except any capital felony, committed on or after October 1, 1998.
Circumstance(s) when mitigation applies	When the defendant makes a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.
Other provisions of note	None.
Express DIH or DDRD provision in state law	FLA. STAT. ANN. § 782.04(1)(a)(3) (West 2021) (eff. as amended Oct. 1, 2017).
Classification of DIH/DDRDR offense	First degree murder and constitutes a capital felony.
Circumstance(s) when DIH/DRDD applies	A death which resulted from the unlawful distribution by a person 18 years of age or older of any of the following substances or mixture containing any of the following substances, when such substance or mixture is proven to be the proximate cause of the death of the user: (1) any Schedule I substance; (2) cocaine; (3) opium or any synthetic or natural salt, compound, derivative, or preparation of opium; (4) methadone; (5) alfentanil; (6) carfentanil; (7) fentanyl; (8) sufentanil; or (9) a controlled substance analog of any substance specified in this list.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	H.B. 95, 2022 Leg., 124th Reg. Sess. (Fla. 2021) (pending in House committee); S. 190, 2022 Leg., 124th Reg. Sess. (Fla. 2021) (pending in Senate committee). These bills change the element of cause for Florida's DIH law from the "proximate cause of death of the user" to "proven to have caused or is proven to have been a substantial factor in produced the death of the user." The bills define "substantial factor" to mean that the use of the substance or mixture alone is sufficient to cause death, regardless of whether any other substance or mixture used is also sufficient to cause death. The bills also add methamphetamine to the list of substances that can result in a DIH charge.

<u>GEORGIA</u>	
Statute(s) and initial effective date(s)	GA. CODE ANN. § 16-13-5 (West 2021) (eff. April 24, 2014).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who in good faith seeks medical assistance for a person experiencing a drug overdose. • Person who is experiencing a drug overdose and, in good faith, seeks medical assistance for himself or herself, or is the subject of such a request. <p>The law defines the phrases “drug overdose,” “medical assistance,” and “seeks medical assistance.” A “drug overdose” is a condition resulting from the use of a controlled substance or dangerous drug.</p>
Protection as to controlled substance possession crimes	<p>An eligible person may not be arrested, charged, or prosecuted for a “drug violation,” which is defined to include:</p> <ul style="list-style-type: none"> • Possession of a controlled substance if the aggregate weight, including any mixture, is less than four grams of a solid substance, less than one milliliter of liquid substance, or if the substance is placed onto a secondary medium with a combined weight of less than four grams (GA. CODE ANN. § 16-13-30(a) West 2021)); and • Possession of less than one ounce of marijuana (GA. CODE ANN. § 16-13-30(j)(1) (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person may not be arrested, charged, or prosecuted for a “drug violation,” which is defined to include the possession and use of drug-related objects (GA. CODE ANN. § 16-13-32.2 (West 2021)).
Protection as to other crimes/violations	<p>An eligible person is not subject to:</p> <ul style="list-style-type: none"> • Penalties for violation of a permanent or temporary protective order or restraining order; or • Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole based on a drug violation.
Requirement(s) for the protection to apply	Evidence for the arrest, charge, or prosecution of such drug violation must have resulted solely from the seeking of medical assistance.

<u>GEORGIA</u>	
Exception(s) to protection	<p>The existence of the protection does not limit:</p> <ul style="list-style-type: none"> • Admissibility of any evidence in connection with the investigation or prosecution of a crime or a defendant that is not subject to the protection; • Any seizure of evidence or contraband otherwise permitted by law; or • 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 not subject to the protection.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed Legislation	<ul style="list-style-type: none"> • H.B. 12, 156th Gen. Assemb., 2021-2022 Reg. Sess. (Ga. 2021) (pending in House upon adjournment). This bill would amend the GS protection for possession of marijuana from one ounce to two ounces. • S.B. 77, 156th Gen. Assemb., 2021-2022 Reg. Sess. (Ga. 2021) (pending in Senate upon adjournment). The bill would amend the GS protect for possession of marijuana to apply to GA. CODE ANN. § 16-13-2(b) (West 2021) (“Conditional discharge for possession as first offense”) instead of GA. CODE ANN. § 16-13-30(j)(1) (West 2021) (“Possession, manufacturing, etc., of certain controlled substances or marijuana”).

<u>HAWAII</u>	
Statute(s) and initial effective date(s)	HAW. REV. STAT. ANN. § 329-43.6 (West 2021) (eff. July 7, 2015).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person or persons who, in good faith, seek medical assistance for someone who is experiencing a drug or alcohol overdose. • Person experiencing a drug or alcohol overdose who seeks medical assistance for himself or herself or is the subject of such a good faith request. <p>The law defines the terms “drug or alcohol overdose” and “seeks medical assistance.” A “drug or alcohol overdose” is a condition resulting from the use of a controlled substance, alcohol, or another substance combined with one of these.</p>
Protection as to controlled substance possession crimes	An eligible person shall not be arrested, charged, prosecuted, or convicted; have their property subject to forfeiture; or otherwise be penalized for the possession of a controlled substance.
Protection as to drug paraphernalia crimes	An eligible person shall not be arrested, charged, prosecuted, or convicted; have their property subject to forfeiture; or otherwise be penalized for the possession of drug paraphernalia.
Protection as to other crimes/violations	<p>An eligible person shall not be arrested, charged, prosecuted, or convicted; have his or her property subject to forfeiture; or otherwise be penalized for:</p> <ul style="list-style-type: none"> • Violation of a restraining order; • Violation of probation or parole; or • Committing a prohibited act under HAW. REV. STAT. ANN. § 281-101.5 or § 712-1250.5 (West 2021) (providing alcohol to a person under the age of 21).
Requirement(s) for the protection to apply	Evidence for the arrest, charge, prosecution, conviction, seizure, or penalty must have been gained as a result of the seeking of medical assistance.
Exception(s) to protection	None.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Any controlled substance or alcohol-related criminal prosecution not covered by the Good Samaritan protection.
Circumstance(s) when mitigation applies	Act of seeking medical assistance for someone who is experiencing a drug or alcohol overdose.

<u>HAWAII</u>	
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>IDAHO</u>	
Statute(s) and initial effective date(s)	IDAHO CODE ANN. § 37-2739C (West 2021) (eff. July 1, 2018).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person acting in good faith who seeks medical assistance for any person experiencing a drug-related medical emergency. • Person who experiences a drug-related medical emergency and needs medical assistance.
Protection as to controlled substance possession crimes	An eligible person may not be charged or prosecuted for possession of (IDAHO CODE ANN. § 37-2732(c), (e) (West 2021)) or for being under the influence of a controlled substance (IDAHO CODE ANN. § 37-2732c(a) (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person may not be charged or prosecuted for using or possessing with intent to use drug paraphernalia (IDAHO CODE ANN. § 37-2734a(1) (West 2021)).
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	Evidence of the charge must have been obtained because of the medical emergency and the need for medical assistance.
Exception(s) to protection	The existence of the protection is not grounds for suppression of evidence in other criminal charges.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DRDD offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DRDD offense	N/A
Recently proposed legislation	None.

<u>ILLINOIS</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • 720 ILL. COMP. STAT. ANN. 570/414 (West 2021) (eff. June 1, 2012) (Good Samaritan protections for controlled substances). • 720 ILL. COMP. STAT. ANN. 646/115 (West 2021) (eff. June 1, 2012) (Good Samaritan protections for methamphetamine). • 730 ILL. COMP. STAT. ANN. 5/5-5-3.1(14) (West 2021) (eff. June 1, 2012) (mitigating factor in sentencing).
Substantive amendments to law(s)	<p>April 27, 2021 – amendments to 720 ILL. COMP. STAT. ANN. 570/414 and 646/115 (West 2021) added:</p> <ul style="list-style-type: none"> • Protection for an eligible person against arrest; • Provision that violations listed in the GS statute cannot serve as the sole basis of a violation of parole, mandatory supervised release, probation, or conditional discharge or any seizure of property under state law authorizing civil forfeiture; • Immunity for the possession of drug paraphernalia; • Affirmative defense to DIH; and • Immunity for certain aggravated battery offenses.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who, in good faith, seeks or obtains emergency medical assistance for someone experiencing an overdose. • Person who is experiencing an overdose. <p>The law defines the term “overdose.” With respect to 720 ILL. COMP. STAT. ANN. 570/414 (West 2021), “overdose” relates to a controlled substance-induced event. The protection afforded by 720 ILL. COMP. STAT. ANN. 646/115 (West 2021) must relate to a methamphetamine-induced event.</p>
Protection as to controlled substance possession crimes	<p>Eligible person receives a limited immunity and may not be arrested, charged, or prosecuted for a violation of 720 ILL. COMP. STAT. ANN. 570/402 (West 2021) (unauthorized possession), or 720 ILL. COMP. STAT. ANN. 646/60 (West 2021) (methamphetamine possession) with respect to the following amounts:</p> <ul style="list-style-type: none"> • Less than 3 grams of heroin, cocaine, or morphine; • Less than 40 grams of peyote; • Less than 40 grams of a substance containing a derivative of barbituric acid or amphetamine; • Less than 3 grams of a substance containing lysergic acid diethylamide (LSD), or an analog thereof; • Less than 6 grams of a substance containing pentazocine or an analog thereof; • Less than 6 grams of a substance containing methaqualone, phencyclidine (PCP) or ketamine;

<u>ILLINOIS</u>	
Protection as to controlled substance possession crimes (continued)	<ul style="list-style-type: none"> • Less than 40 grams of a substance containing a substance classified as a narcotic drug in Schedules I or II, or an analog thereof, not already listed; • Less than three grams of methamphetamine or a substance containing methamphetamine (applies to the person who, in good faith, seeks emergency medical assistance for someone experiencing an overdose); or • Less than one gram of methamphetamine or a substance containing methamphetamine (applies to the person who is experiencing an overdose).
Protection as to drug paraphernalia crimes	Eligible person receives a limited immunity and may not be arrested, charged, or prosecuted for a violation of 720 ILL. COMP. STAT. ANN. 600/3.5 (West 2021) (possession of drug paraphernalia).
Protection as to other crimes/violations	<ul style="list-style-type: none"> • A person who, in good faith, seeks or obtains emergency medical assistance for someone experiencing an overdose or who is experiencing an overdose shall not be arrested, charged, or prosecuted for a violation of 720 ILL. COMP. STAT. ANN. 570/401 (West 2021) (manufacture or delivery, or possession with intent to manufacture or deliver a controlled substance). • A person who, in good faith, seeks or obtains emergency medical assistance for someone experiencing an overdose or who is experiencing an overdose shall not be arrested, charged, or prosecuted for a violation of 720 ILL. COMP. STAT. ANN. 646/55 (West 2021) (methamphetamine delivery). • A person who, in good faith, seeks or obtains emergency medical assistance for someone experiencing an overdose or who is experiencing an overdose shall not be arrested, charged, or prosecuted for aggravated battery when, other than by discharge of a firearm, he or she violates 720 ILL. COMP. STAT. ANN. 570/401 (West 2021) by unlawfully delivering a controlled substance to another and any user experiences great bodily harm or permanent disability as a result of the injection, inhalation, or ingestion of any amount of the controlled substance (720 ILL. COMP. STAT. ANN. 5/12-3.05(g)(1) (West 2021)). • The violations listed in 720 ILL. COMP. STAT. ANN. 570/414 or 646/115 (West 2021) must not serve as the sole basis of a violation of parole, mandatory supervised release, probation, or conditional discharge, or any seizure of property under any State law authorizing civil forfeiture.
Requirement(s) for the protection to apply	Evidence for the charge must have been acquired because of the person seeking or obtaining emergency medical assistance.

<u>ILLINOIS</u>	
Exception(s) to protection	<ul style="list-style-type: none"> • Limited immunity is not extended if law enforcement has reasonable suspicion or probable cause to detain, arrest, or search the person for criminal activity and the reasonable suspicion or probable cause is based on information obtained prior to or independent of the individual taking action to seek or obtain emergency medical assistance and not obtained as a direct result of the action of seeking or obtaining emergency medical assistance. • Existence of the protection does not interfere with or prevent the investigation, arrest, or prosecution of any person for the delivery or distribution of cannabis, methamphetamine or other controlled substances, drug-induced homicide, or any other crime.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	<ul style="list-style-type: none"> • Class 3 felony or higher possession, manufacture, or delivery of a controlled, counterfeit, or look-alike substance or a controlled substance analog under the Illinois Controlled Substances Act. • Class 2 felony or higher possession, manufacture, or delivery of methamphetamine under the Methamphetamine Control and Community Protection Act.
Circumstance(s) when mitigation applies	The defendant sought or obtained emergency medical assistance for an overdose.
Other provisions of note	None.
Express DIH or DDRD provision in state law	720 ILL. COMP. STAT. ANN. 5/9-3.3 (West 2021) (eff. as amended Jan. 1, 2018).
Classification of DIH/DRDD offense	Drug-induced homicide, which is a Class X felony.
Circumstance(s) when DIH/DRDD applies	<ul style="list-style-type: none"> • Person violates Section 401 of the Illinois Controlled Substances Act or Section 55 of the Methamphetamine Control and Community Protection Act by unlawfully delivering a controlled substance to another, and any person's death is caused by the injection, inhalation, absorption, or ingestion of any amount of that controlled substance.

<u>ILLINOIS</u>	
Circumstance(s) when DIH/DRDD applies (continued)	<ul style="list-style-type: none"> • Person violates the law of another jurisdiction, which if the violation had been committed in this state could be charged under Section 401 of the Illinois Controlled Substances Act or Section 55 of the Methamphetamine Control and Community Protection Act, by unlawfully delivering a controlled substance to another, and any person's death is caused in the state by the injection, inhalation, absorption, or ingestion of any amount of that controlled substance.
Affirmative defense of DIH/DDRDD offense	A person who, in good faith, seeks or obtains emergency medical assistance for someone experiencing an overdose or who is experiencing an overdose shall not be arrested, charged, or prosecuted for a violation of 720 ILL. COMP. STAT. ANN. 5/9-3.3 (West 2021).
Recently proposed legislation	<ul style="list-style-type: none"> • H.B. 3615, 102nd Gen. Assemb., 1st Reg. Sess. (Ill. 2021) (pending in House committee). This bill would change DIH from a Class X felony to a Class 1 felony for sentencing purposes. • S.B. 2212, 102nd Gen. Assemb., 1st Reg. Sess. (Ill. 2021) (pending in Senate committee). This bill would make it so that a person commits DIH if the controlled substance is a contributing cause of the person's death.

<u>INDIANA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • IND. CODE ANN. § 16-42-27-2(d), (g), (h) (West 2021) (eff. Mar. 21, 2016) (Good Samaritan protections). • IND. CODE ANN. § 35-38-1-7.1(b)(12) (West 2021) (eff. Mar. 26, 2014) (mitigating factor for sentencing).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	An individual who: (1) obtains an overdose intervention drug from a prescriber or pursuant to a standing order; (2) administers the overdose intervention drug to an individual who appears to be experiencing an opioid-related overdose; and (3) attempts to summon emergency services immediately before or after administering the drug.
Protection as to controlled substance possession crimes	<p>A law enforcement officer may not take an eligible individual into custody, and that individual is immune from criminal prosecution, for the following offenses:</p> <ul style="list-style-type: none"> • Possession of cocaine (IND. CODE ANN. §35-48-4-6) (West 2021)); • Possession of methamphetamine (IND. CODE ANN. § 35-48-4-6.1) (West 2021)); • Possession of a controlled substance (IND. CODE ANN. § 35-48-4-7) (West 2021)); • Possession of marijuana (IND. CODE ANN. § 35-48-4-11) (West 2021)); and • Possession of a synthetic drug, controlled substance analog, or substance represented to be a controlled substance (IND. CODE ANN. § 35-48-4 (West 2021)).
Protection as to drug paraphernalia crimes	A law enforcement officer may not take an eligible individual into custody, and that individual is immune from criminal prosecution, for possession of paraphernalia (IND. CODE ANN. § 35-48-4-8.3 (West 2021)).
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	<p>Eligible individual must:</p> <ul style="list-style-type: none"> • Provide the law enforcement officer with his or her full name and any other relevant information requested; • Remain at the scene with the individual who reasonably appeared to be in need of medical assistance until emergency medical assistance arrived; and

<u>INDIANA</u>	
Requirement(s) for the protection to apply (continued)	<ul style="list-style-type: none"> Cooperate with emergency medical assistance personnel and law enforcement officers at the scene. <p>Law enforcement contact occurred because of the request for emergency medical assistance for another.</p>
Exception(s) to protection	None.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Crimes related to a controlled substance.
Circumstance(s) when mitigation applies	The person's arrest or prosecution was facilitated in part because the person: (1) requested emergency medical assistance; or (2) acted in concert with another person who requested emergency medical assistance, with respect to an individual who reasonably appeared to be in need of medical assistance due to the use of alcohol or a controlled substance.
Other provisions of note	None.
Express DIH or DDRD provision in state law	IND. CODE ANN. § 35-42-1-1.5 (West 2021) (eff. July 1, 2018).
Classification of DIH/DRDD offense	Level 1, 2, or 3 felony depending on the controlled substance involved.
Circumstance(s) when DIH/DRDD applies	<ul style="list-style-type: none"> A person who knowingly or intentionally manufactures or delivers a controlled substance or controlled substance analog, in violation of: (1) IND. CODE ANN. § 35-48-4-1 (West 2021) (dealing in cocaine or a narcotic drug); (2) IND. CODE ANN. § 35-48-4-1.1 (West 2021) (dealing in methamphetamine); (3) IND. CODE ANN. § 35-48-4-1.2 (West 2021) (manufacturing methamphetamine); or (4) IND. CODE ANN. § 35-48-4-2 (West 2021) (dealing in a Schedule I, II, or III controlled substance) that, when the controlled substance is used, injected, inhaled, absorbed, or ingested, results in the death of a human being who used the controlled substance, commits dealing in a controlled substance resulting in death, a Level 1 felony.

<u>INDIANA</u>	
Circumstance(s) when DIH/DRDD applies (continued)	<ul style="list-style-type: none">• A person who knowingly or intentionally manufactures or delivers a controlled substance, in violation of IND. CODE ANN. § 35-48-4-3 (West 2021) (dealing in a Schedule IV controlled substance) that, when the controlled substance is used, injected, inhaled, absorbed, or ingested, results in the death of a human being who used the controlled substance, commits dealing in a controlled substance resulting in death, a Level 2 felony.• A person who knowingly or intentionally manufactures or delivers a controlled substance, in violation of IND. CODE ANN. § 35-48-4-4 (West 2021) (dealing in a Schedule V controlled substance) that, when the controlled substance is used, injected, inhaled, absorbed, or ingested, results in the death of a human being who used the controlled substance, commits dealing in a controlled substance resulting in death, a Level 3 felony.
Affirmative defense of DIH/DDRDD offense	None.
Recently proposed legislation	None.

<u>IOWA</u>	
Statute(s) and initial effective date(s)	IOWA CODE ANN. § 124.418 (West 2021) (eff. July 1, 2018).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Overdose patient, defined as person who is, or would reasonably be perceived to be, suffering from a drug-related overdose and who has not previously received immunity under IOWA CODE ANN. § 124.418 (West 2021). • Overdose reporter, defined as a person who seeks medical assistance for an overdose patient and who has not previously received immunity under IOWA CODE ANN. § 124.418 (West 2021). <p>The law defines the phrase “drug-related overdose” as a condition resulting from the use of a controlled substance.</p>
Protection as to controlled substance possession crimes	<p>Protected information may not be considered to support probable cause and is not admissible as evidence against an overdose patient or overdose reporter for any of the following offenses:</p> <ul style="list-style-type: none"> • Delivery of a controlled substance under IOWA CODE ANN. § 124.401(1) (West 2021), if the delivery involved sharing the controlled substance without profit; and • Possession of a controlled substance under IOWA CODE ANN. § 124.401(5) (West 2021). <p>“Protected information” means information or evidence collected or derived as a result of: (1) an overdose patient’s good-faith actions to seek medical assistance while experiencing a drug-related overdose; or (2) an overdose reporter’s good-faith actions to seek medical assistance for an overdose patient experiencing a drug-related overdose.</p>
Protection as to drug paraphernalia crimes	Protected information may not be considered to support probable cause and is not admissible as evidence against an overdose patient or overdose reporter for a drug paraphernalia violation under IOWA CODE ANN. § 124.414 (West 2021).
Protection as to other crimes/violations	<ul style="list-style-type: none"> • Protected information may not be considered to support probable cause and is not admissible as evidence against an overdose patient or overdose reporter for a violation of IOWA CODE ANN. § 124.407 (West 2021) (gatherings where controlled substances unlawfully used). • Person’s pretrial release, probation, supervised release, or parole may not be revoked based on protected information.

<u>IOWA</u>	
Requirement(s) for the protection to apply	<p>With respect to an overdose reporter, the person must:</p> <ul style="list-style-type: none"> • Be the first person to seek medical assistance for the overdose patient; • Provide his or her name and contact information to medical or law enforcement personnel; • Remain on the scene until assistance arrives or is provided; and • Cooperate with medical and law enforcement personnel.
Exception(s) to protection	<ul style="list-style-type: none"> • Definitions of “overdose patient” and “overdose reporter” serve to limit the application of the protection to one instance. • Existence of the protection does not: <ul style="list-style-type: none"> ○ Preclude an investigation by law enforcement of the drug-related overdose where medical assistance was provided; ○ Limit or bar the use or admissibility of any evidence or information obtained in connection with the investigation of the drug-related overdose in the investigation or prosecution of other violations which do not qualify for protection; or ○ Preclude the investigation or prosecution of any person on the basis of evidence obtained from sources other than the specific drug-related overdose where medical assistance was provided. • Person cannot seek medical assistance during the execution of an arrest warrant, search warrant, or other lawful search.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Any criminal prosecution.
Circumstance(s) when mitigation applies	When an individual provides first aid or other medical assistance to someone who is experiencing a drug-related overdose.
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>KANSAS</u>	
Statute(s) and initial effective date(s)	No state law explicitly pertaining to Good Samaritan fatal overdose prevention.
Substantive amendments to law(s)	N/A
Individual(s) eligible for GS protection	N/A
Protection as to controlled substance possession crimes	N/A
Protection as to drug paraphernalia crimes	N/A
Protection as to other crimes/violations	N/A
Requirement(s) for the protection to apply	N/A
Exception(s) to protection	N/A
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	KAN. STAT. ANN. § 21-5430 (West 2021) (eff. July 1, 2013).
Classification of DIH/DDRDR offense	Distribution of a controlled substance causing death, a nondrug severity level 1, person felony.
Circumstance(s) when DIH/DRDD applies	Individual distributes a controlled substance in violation of KAN. STAT. ANN. § 21-5705 (West 2021) and death results from the use of such controlled substance.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>KENTUCKY</u>	
Statute(s) and initial effective date(s)	KY. REV. STAT. ANN. § 218A.133 (West 2021) (eff. Mar. 25, 2015).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who in good faith requests emergency medical assistance, with respect to a drug overdose, for himself or herself or another person. • Person who in good faith acts in concert with another person who requests emergency medical assistance with respect to a drug overdose. • Person who appears to be in need of emergency medical assistance for a drug overdose and is the individual for whom the request is made. <p>The law defines the phrase “drug overdose” as a condition resulting from the use of a controlled substance or another substance combined with one.</p>
Protection as to controlled substance possession crimes	An eligible person may not be charged or prosecuted for a criminal offense prohibiting the possession of a controlled substance.
Protection as to drug paraphernalia crimes	An eligible person may not be charged or prosecuted for a criminal offense prohibiting the possession of drug paraphernalia.
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Person requesting medical assistance must remain with the individual who appears to be experiencing a drug overdose until the requested assistance is provided. • Evidence for the charge or prosecution must be obtained as a result of the drug overdose and the need for medical assistance.
Exception(s) to protection	<ul style="list-style-type: none"> • Existence of the protection does not extend to the investigation and prosecution of any other crimes committed by a person who otherwise qualifies for the protection. • “Good faith” does not include seeking medical assistance during the execution of an arrest warrant, or search warrant, or a lawful search.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A

<u>KENTUCKY</u>	
Circumstance(s) when mitigation applies	N/A
Other provisions of note	<ul style="list-style-type: none"> • When available, contact information for the person who requested emergency medical assistance will be reported to the local health department for the purpose of having the department contact the person and offer referrals regarding substance use disorder treatment, if appropriate. • Law enforcement officer who makes an arrest in contravention of KY. REV. STAT. ANN. § 218A.133 (West 2021) is not criminally or civilly liable for false arrest or false imprisonment if the arrest was based on probable cause.
Express DIH or DDRD provision in state law	KY. REV. STAT. ANN. § 507.040 (West 2021) (eff. June 27, 2019).
Classification of DIH/DDRDR offense	Second degree manslaughter (class C felony)
Circumstance(s) when DIH/DRDD applies	A person wantonly causes the death of another person through the unlawful distribution for remuneration of a Schedule I or II controlled substance when the controlled substance is the proximate cause of death.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>LOUISIANA</u>	
Statute(s) and initial effective date(s)	LA. STAT. ANN. § 14:403.10 (West 2021) (eff. Aug. 1, 2014).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose. • Person who experiences a drug-related overdose and needs medical assistance.
Protection as to controlled substance possession crimes	An eligible person may not be charged, prosecuted, or penalized for possession of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law.
Protection as to drug paraphernalia crimes	None.
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	Evidence for the possession of a controlled dangerous substance must have been obtained as a result of the person's seeking medical assistance.
Exception(s) to protection	<ul style="list-style-type: none"> • Person seeking medical assistance for another experiencing a drug-related overdose will not be granted protection if the person illegally provided or administered the controlled dangerous substance to the person experiencing the overdose. • The existence of the protection is not grounds for suppression of evidence in other criminal prosecutions.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	LA. STAT. ANN. § 14:30.1(A)(3), (4) (West 2021) (eff. as amended June 26, 2009).
Classification of DIH/DDRDR offense	Second degree murder.

<u>LOUISIANA</u>	
Circumstance(s) when DIH/DRDD applies	<ul style="list-style-type: none"> • Offender unlawfully distributes or dispenses a controlled dangerous substance (listed in Schedules I through V) which is the direct cause of the death of the recipient who ingested or consumed the substance. • Offender unlawfully distributes or dispenses a controlled dangerous substance (listed in Schedules I through V) to another who subsequently distributes or dispenses such substance which is the direct cause of the death of the person who ingested or consumed it.
Affirmative defense of DIH/DDRDD offense	None.
Recently proposed legislation	<ul style="list-style-type: none"> • H.B. 166, 2021 Leg., Reg. Sess. (La. 2021) (bill died upon legislature's adjournment). The bill amends LA. STAT. ANN. § 14:403.10 (West 2021) to provide that the immunity from prosecution, charges, or penalties does not apply when first responders or law enforcement officers respond to the same residence two or more times for a person experiencing a drug-related overdose. • H.B. 158, 2021 Leg., Reg. Sess. (La. 2021) (failed to pass in House). This bill would have limited DIH to deaths caused by fentanyl, carfentanil, or fentanyl analogues.

<u>MAINE</u>	
Statute(s) and initial effective date(s)	ME. REV. STAT. ANN. tit. 17-A § 1111-B (West 2021) (eff. Sept. 19, 2019).
Substantive amendments to law(s)	None. ¹³
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who in good faith seeks medical assistance for another person experiencing a drug-related overdose. • Person who in good faith administers naloxone to another person experiencing a drug-related overdose. • Person who is experiencing a drug-related overdose and is in need of medical assistance.
Protection as to controlled substance possession crimes	An eligible person may not be arrested or prosecuted for the offense of possession of scheduled drugs (ME. REV. STAT. ANN. tit. 17-A § 1107-A (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person may not be arrested or prosecuted for the offenses of: <ul style="list-style-type: none"> • Illegal possession of hypodermic apparatuses (ME. REV. STAT. ANN. tit. 17-A § 1111 (West 2021)); or • Use of drug paraphernalia (ME. REV. STAT. ANN. tit. 17-A § 1111-A (West 2021)).
Protection as to other crimes/violations	An eligible person may not be arrested or prosecuted for: <ul style="list-style-type: none"> • Offense of acquiring drugs by deception (ME. REV. STAT. ANN. tit. 17-A § 1108 (West 2021)); or • Violation of probation (as authorized in chapter 49).
Requirement(s) for the protection to apply	Grounds for the arrest or prosecution must have been obtained because of the person's seeking medical assistance or experiencing a drug-related overdose.
Exception(s) to protection	None.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.

¹³ Effective October 18, 2021, two separate Acts slightly amended ME. REV. STAT. ANN. tit. 17-A § 1111-B. See 2021 Me. Legis. Serv. Ch. 299 (West); 2021 Me. Legis. Serv. Ch. 434 (West). As a result, at present, two different versions of the statute are simultaneously effective.

<u>MAINE</u>	
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>MARYLAND</u>	
Statute(s) and initial effective date(s)	MD. CODE ANN., CRIM. PROC. § 1-210 (West 2021) (eff. Oct. 1, 2009) (mitigating factor in sentencing).
Substantive amendments to law(s)	<ul style="list-style-type: none"> • October 1, 2014 – initial Good Samaritan protections added effective October 1, 2014. • October 1, 2015 – protections against sanctions for a violation of a condition of pretrial release, probation, or parole added.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who, in good faith, seeks, provides, or assists with the provision of medical assistance for a person reasonably believed to be experiencing a medical emergency after using alcohol or drugs. • Person who reasonably believes he or she is experiencing a medical emergency after using alcohol or drugs.
Protection as to controlled substance possession crimes	An eligible person is immune from criminal arrest, charge, or prosecution for the offenses of possessing or administering a controlled dangerous substance (MD. CODE ANN., CRIM. LAW § 5-601 (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person is immune from criminal arrest, charge, or prosecution for the offenses of possession of drug paraphernalia (MD. CODE ANN., CRIM. LAW § 5-619 (West 2021)) or controlled paraphernalia (MD. CODE ANN., CRIM. LAW § 5-620 (West 2021)).
Protection as to other crimes/violations	<ul style="list-style-type: none"> • Eligible person is immune from criminal arrest, charge, or prosecution for the offenses of: <ul style="list-style-type: none"> ○ Possession and consumption of alcoholic beverages by an individual under the age of 21 (MD. CODE ANN., CRIM. LAW § 10-114 (West 2021)); ○ Obtaining an alcoholic beverage for a person that is under the age of 21 (MD. CODE ANN., CRIM. LAW § 10-116 (West 2021)); or ○ Furnishing for or allowing underage alcohol consumption (MD. CODE ANN., CRIM. LAW § 10-117 (West 2021)). • Eligible person may not be sanctioned for a violation of a condition of pretrial release, probation, or parole.
Requirement(s) for the protection to apply	Evidence for the offense must have been obtained solely because of the need for medical assistance.
Exception(s) to protection	None.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Mitigating factor in any criminal prosecution.

<u>MARYLAND</u>	
Circumstance(s) when mitigation applies	When a person seeks medical assistance for another person who is experiencing a medical emergency after using alcohol or drugs.
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Proposed legislation	H.B. 212, 2021 Gen. Assemb., 442nd Sess. (Md. 2021) (bill died upon legislature's adjournment)- This bill would add immunity against a violation of MD. CODE ANN., CRIM. LAW § 5-602 (West 2021) (manufacturing, distributing, possession with intent to distribute, or dispensing a controlled substance) and misdemeanor offenses. Adds that a person who seeks, provides, or assists with the provision of medical assistance or who is experiencing a medical emergency may not be detained or prosecuted in connection with an outstanding warrant for another non-violent crime if the contact with the subject of the warrant was obtained solely because of the person seeking, providing, assisting with, or receiving the provision of medical assistance.

<u>MASSACHUSETTS</u>	
Statute(s) and initial effective date(s)	MASS. GEN. LAWS ANN. ch. 94C § 34A (West 2021) (eff. Aug. 2, 2012).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who, in good faith, seeks medical assistance for someone experiencing a drug-related overdose. • Person who experiences a drug-related overdose, is in need of medical assistance, and, in good faith, seeks such medical assistance, or is the subject of such a good faith request for medical assistance.
Protection as to controlled substance possession crimes	An eligible person may not be charged or prosecuted for possession of a controlled substance (MASS. GEN. LAWS ANN. ch. 94C § 34 (West 2021)).
Protection as to drug paraphernalia crimes	None.
Protection as to other crimes/violations	An eligible person may not be found in violation of a condition of probation or pretrial release as determined by a court or a condition of parole, as determined by the parole board.
Requirement(s) for the protection to apply	Evidence for the charge of possession of a controlled substance or violation must have been gained because of the overdose and the need for medical assistance.
Exception(s) to protection	The existence of the protection does not prevent anyone from being charged with trafficking, distribution, or possession of a controlled substance with intent to distribute.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Criminal prosecution under the Controlled Substance Act.
Circumstance(s) when mitigation applies	When medical assistance is sought for someone who is experiencing a drug-related overdose.
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>MICHIGAN</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • MICH. COMP. LAWS ANN. § 333.7403 (West 2021) (eff. Mar. 15, 2016) (protections for possession of a controlled substance). • MICH. COMP. LAWS ANN. § 333.7404 (West 2021) (eff. Mar. 15, 2016) (protections for use of a controlled substance).
Substantive amendments to law(s)	January 4, 2017 – Both provisions originally only applied to individuals under the age of 21. An amendment expanded the protection provisions to individuals of any age.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Individual who seeks medical assistance for himself or herself or who requires medical assistance and is presented for assistance by another individual if he or she is incapacitated because of a drug overdose or other perceived medical emergency arising from the use of a controlled substance or a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use. • Individual who in good faith attempts to procure medical assistance for another individual or who accompanies another individual who requires medical assistance for a drug overdose or other perceived medical emergency arising from the use of a controlled substance or a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use. <p>The law defines the terms “drug overdose” and “seeks medical assistance.” A “drug overdose” is a condition that results from the use of a controlled substance, controlled substance analogue, or another substance combined with one of these.</p>
Protection as to controlled substance possession crimes	An eligible person is not in violation of the sections prohibiting the knowing or intentional possession or use of a controlled substance or controlled substance analogue.
Protection as to drug paraphernalia crimes	None.
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	Evidence of the offense must have been obtained as a result of the individual’s seeking or being presented for medical assistance.
Exception(s) to protection	The existence of the protection does not prevent the investigation, arrest, charging, or prosecution of an individual for any other violation of state law or grounds for suppression of evidence in the prosecution of any other criminal charges.
Reporting overdose a mitigating factor in sentencing	No.

<u>MICHIGAN</u>	
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	MICH. COMP. LAWS ANN. 750.317a (West 2021) (eff. Jan. 1, 2006).
Classification of DIH/DDRDR offense	Delivery or distribution resulting in death (felony).
Circumstance(s) when DIH/DRDD applies	When a person delivers a Schedule 1 or 2 controlled substance, other than marijuana, to another person in violation of MICH. COMP. LAWS ANN. § 333.7401 (West 2021) that is consumed by that person or any other person and that causes the death of that person.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>MINNESOTA</u>	
Statute(s) and initial effective date(s)	MINN. STAT. ANN. § 604A.05 (West 2021) (eff. July 1, 2014).
Substantive amendments to law(s)	No.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person acting in good faith who seeks medical assistance for someone who is experiencing a drug-related overdose. • Person experiencing a drug-related overdose and needs medical assistance. <p>The law defines the phrase “drug-related overdose” as a condition that results from the use of a controlled substance or another substance combined with one.</p>
Protection as to controlled substance possession crimes	<p>An eligible person may not be charged or prosecuted for the possession, sharing, or use of a controlled substance under:</p> <ul style="list-style-type: none"> • MINN. STAT. ANN. § 152.023(2)(4) and (6) (West 2021) (certain controlled substance crimes in the third degree); • MINN. STAT. ANN. § 152.024 (West 2021) (controlled substance crime in fourth degree); and • MINN. STAT. ANN. § 152.025 (West 2021) (controlled substance crime in fifth degree).
Protection as to drug paraphernalia crimes	An eligible person may not be charged or prosecuted for the possession of drug paraphernalia.
Protection as to other crimes/violations	An eligible person’s pretrial release, probation, furlough, supervised release, or parole may not be revoked based on an incident for which the person would be immune from prosecution.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Evidence for the offense must have been obtained as a result of the person’s overdose and the need for medical assistance. • Person who seeks medical assistance must be the first person to seek the assistance, provide his or her name and contact information, remain on the scene until assistance arrives or is provided, and cooperate with the authorities.
Exception(s) to protection	<p>The existence of the protection does not:</p> <ul style="list-style-type: none"> • Bar the admissibility of any evidence obtained in connection with the investigation and prosecution of other crimes or violations; or • Preclude prosecution of a person on the basis of evidence obtained from an independent source. <p>Good faith does not include seeking medical assistance during the execution of an arrest warrant or search warrant or a lawful search.</p>
Reporting overdose a mitigating factor in sentencing	Yes.

<u>MINNESOTA</u>	
Offenses subject to mitigation	Any criminal offense for which immunity is not provided.
Circumstance(s) when mitigation applies	When an individual provided first aid or other medical assistance to someone who was experiencing a drug-related overdose.
Other provisions of note	<p>The existence of the protection does not:</p> <ul style="list-style-type: none"> • Limit, modify, or remove any immunity from liability currently available to public entities, public employees by law, or prosecutors; or • Prevent probation officers from conducting drug testing of persons on pretrial release, probation, furlough, supervised release, or parole.
Express DIH or DDRD provision in state law	MINN. STAT. ANN. § 609.195 (West 2021) (eff. as amended Aug. 1, 1987).
Classification of DIH/DDRDR offense	Third degree murder.
Circumstance(s) when DIH/DRDD applies	Whoever, without intent to cause death, proximately causes the death of a human being by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a controlled substance classified in Schedule I or II.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>MISSISSIPPI</u>	
Statute(s) and initial effective date(s)	MISS. CODE ANN. § 41-29-149.1 (West 2021) (eff. July 1, 2015).
Substantive amendments to law(s)	July 1, 2016 – protections for the possession of 10 grams or less of synthetic cannabinoids added.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who in good faith seeks medical assistance for someone who is experiencing a drug overdose. • Person who is experiencing a drug overdose and, in good faith, seeks medical assistance or is the subject of a request for medical assistance. <p>The law defines the phrases “drug overdose,” “medical assistance,” and “seeks medical assistance.” A “drug overdose” is a condition that results from the use of a controlled substance or dangerous drug.</p>
Protection as to controlled substance possession crimes	<p>An eligible person may not be arrested, charged, or prosecuted for a “drug violation,” which is defined to include:</p> <ul style="list-style-type: none"> • Possession of a controlled substance if the aggregate weight, including any mixture, is less than four grams of a solid substance, less than 20 dosage units, less than one milliliter of liquid substance, or, if the substance is placed onto a secondary medium, has a combined weight of less than four grams (MISS. CODE ANN. § 41-29-139 (West 2021)); and • Possession of 30 grams or less of marijuana or 10 grams or less of synthetic cannabinoids (MISS. CODE ANN. § 41-29-139 (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person may not be arrested, charged, or prosecuted for a “drug violation,” which is defined to include the possession and use of drug paraphernalia (MISS. CODE ANN. § 41-29-139(d)(2) (West 2021)).
Protection as to other crimes/violations	<p>An eligible person is not subject to:</p> <ul style="list-style-type: none"> • Penalties for a violation of a permanent or temporary protective order or restraining order; • Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole based on a drug violation; or • Forfeiture of property pursuant to MISS. CODE ANN. § 41-29-153 (West 2021) or MISS. CODE ANN. § 41-29-176 (West 2021) for a drug violation, except that prima facie contraband shall be subject to forfeiture.
Requirement(s) for the protection to apply	Evidence for the charge or prosecution must have been obtained because of the person’s overdose and the need for medical assistance.

<u>MISSISSIPPI</u>	
Exception(s) to protection	<p>The existence of the protection does not limit:</p> <ul style="list-style-type: none"> • 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 or with regard to other crimes committed by a person who otherwise qualifies for protection; • Any seizure of evidence or contraband otherwise permitted by law; or • 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 not subject to the protection.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>MISSOURI</u>	
Statute(s) and initial effective date(s)	MO. ANN. STAT. § 195.205 (West 2021) (eff. Aug. 28, 2017).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who, in good faith, seeks or obtains medical assistance for someone who is experiencing a drug or alcohol overdose or another medical emergency. • Person experiencing a drug or alcohol overdose or another medical emergency who seeks medical assistance for himself or herself or is the subject of a good faith request. <p>The law defines the phrases “drug or alcohol overdose,” and “medical assistance.” A “drug or alcohol overdose” is a condition that results from the use of a controlled substance, alcohol, or another substance combined with one of these.</p>
Protection as to controlled substance possession crimes	An eligible person may not be arrested, charged, prosecuted, or convicted for possession of a controlled substance or an imitation controlled substance (MO. ANN. STAT. §§ 579.015 and 579.078 (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person may not be arrested, charged, prosecuted, or convicted of the offense of unlawful possession of drug paraphernalia (MO. ANN. STAT. § 579.074 (West 2021)).
Protection as to other crimes/violations	<ul style="list-style-type: none"> • An eligible person may not be arrested, charged, prosecuted, or convicted for the offense of: <ul style="list-style-type: none"> ○ Keeping or maintaining a public nuisance (MO. ANN. STAT. § 579.105 (West 2021)); ○ Selling alcohol to a minor (MO. ANN. STAT. § 311.310 (West 2021)); ○ Purchase or possession of alcohol by a minor (MO. ANN. STAT. § 311.320 (West 2021)); or ○ Misrepresentation of age by a minor to obtain liquor (MO. ANN. STAT. § 311.320 (West 2021)). • An eligible person may not: (1) be penalized for violating a restraining order; (2) be penalized for violating probation or parole; or (3) have property subject to civil forfeiture.
Requirement(s) for the protection to apply	Evidence for the arrest, charge, prosecution, conviction, seizure, or penalty must have been gained because of seeking or obtaining medical assistance.

<u>MISSOURI</u>	
Exception(s) to protection	<p>The existence of the protection does not:</p> <ul style="list-style-type: none"> • Prohibit a police officer from arresting a person for an outstanding warrant under MO. ANN. STAT. §221.510(1) (West 2021); • Prohibit a person from being arrested, charged, or prosecuted for a non-protected offense, whether the offense arises from the same circumstances as the seeking of medical assistance; or • Provide grounds for suppression of evidence or dismissal in charges unrelated to those covered by protections.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	Any police officer who is in contact with any person or persons in need of emergency medical assistance must provide appropriate information and resources for substance-related assistance.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>MONTANA</u>	
Statute(s) and initial effective date(s)	MONT. CODE ANN. § 50-32-609 (West 2021) (eff. May 3, 2017).
Substantive amendments to law(s)	July 1, 2019 – specific protections for pregnant women seeking services for a substance use disorder added.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who, acting in good faith, seeks medical assistance for another person who is experiencing an actual or reasonably perceived drug-related overdose. • Person who experiences a drug-related overdose and is in need of medical assistance. • The part of the Montana code containing the statute at issue (the “Help Save Lives from Overdose Act”) uses and defines the phrase “opioid-related drug overdose.” The statute does not use that phrase, however, instead using the undefined phrase “drug-related overdose.”
Protection as to controlled substance possession crimes	<p>An eligible person may not be arrested, charged, or prosecuted for the offense of:</p> <ul style="list-style-type: none"> • Criminal possession of dangerous drugs (MONT. CODE ANN. § 45-9-102 (West 2021)); or • Criminal possession of precursors to dangerous drugs (MONT. CODE ANN. § 45-9-107 (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person may not be arrested, charged, or prosecuted for the offense of criminal possession of drug paraphernalia (MONT. CODE ANN. § 45-10-103 (West 2021)).
Protection as to other crimes/violations	<ul style="list-style-type: none"> • Provisions of MONT. CODE ANN. § 45-5-626 (West 2021) (violation of order of protection) do not apply to an eligible person. • Eligible person’s pretrial release, probation, furlough, supervised release, or parole may not be revoked based on an incident for which the person would be immune from arrest, charge, or prosecution.
Requirement(s) for the protection to apply	Evidence supporting the arrest, charge, or prosecution must have been obtained because of the drug-related overdose and the need for medical assistance.
Exception(s) to protection	The existence of the protection does not bar the admissibility of evidence obtained in connection with the investigation and prosecution of other crimes or violations committed by a person who otherwise qualified for limited immunity.
Reporting overdose a mitigating factor in sentencing	Yes.

<u>MONTANA</u>	
Offenses subject to mitigation	Criminal offenses for which immunity is not provided.
Circumstance(s) when mitigation applies	When a person provides first aid or other medical assistance to a person who is experiencing an actual or reasonably perceived drug-related overdose.
Other provisions of note	<ul style="list-style-type: none"> • The following provisions do not apply to a pregnant woman seeking or receiving evaluation, treatment, or support services for a substance use disorder: (1) criminal possession of dangerous drugs (MONT. CODE ANN. § 45-9-102 (West 2021)); (2) criminal possession of precursors to dangerous drugs (MONT. CODE ANN. § 45-9-107 (West 2021)); and (3) criminal possession of drug paraphernalia (MONT. CODE ANN. § 45-10-103 (West 2021)). • The existence of the protection does not: (1) limit, modify, or remove immunity from liability currently available to public entities, public employees, or prosecutors or by law; or (2) create a new cause of action or other source of criminal liability for a pregnant woman with a substance use disorder who does not seek or receive evaluation, treatment, or support services.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>NEBRASKA</u>	
Statute(s) and initial effective date(s)	NEB. REV. STAT. § 28-472 (West 2021) (eff. Aug. 24, 2017).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<p>Person who makes a good faith request for emergency medical assistance in response to a drug overdose of himself, herself, or another.</p> <p>The law defines the phrase “drug overdose” as a condition resulting from the use of a controlled substance or another substance combined with one.</p>
Protection as to controlled substance possession crimes	An eligible person will not be in violation of the offense of possession of a controlled substance (NEB. REV. ST. § 28-416(3) (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person will not be in violation of the offense of use or possession of drug paraphernalia (NEB. REV. ST. § 28-441 (West 2021)).
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Request for medical assistance must have been made as soon as the drug overdose was apparent. • Evidence for the violation was obtained because of the drug overdose and the request for medical assistance. • When emergency medical assistance was requested for the drug overdose of another person: (1) the requesting person remained on the scene until medical assistance or law enforcement personnel arrived; and (2) the person cooperated with medical assistance and law enforcement.
Exception(s) to protection	<p>The existence of the protection does not interfere with or prohibit the investigation, arrest, or prosecution of any person for, or affect the admissibility or use of evidence in, cases involving:</p> <ul style="list-style-type: none"> • Drug-induced homicide; • Violations of the possession of drug paraphernalia (NEB. REV. ST. § 28-441 (West 2021)) and the possession of a controlled substance (NEB. REV. ST. § 28-416 (West 2021)) for which protections are not provided; or • Any other criminal offense.
Reporting overdose a mitigating factor in sentencing	No.

<u>NEBRASKA</u>	
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	A person cannot initiate or maintain an action against a peace officer or the state agency or political subdivision employing such officer based on the officer's compliance with the provisions involving the exception from criminal liability.
Express DIH or DDRD provision in state law	No. Despite the reference to drug-induced homicide in the exceptions to Good Samaritan protections, there is no Nebraska statute that expressly pertains to drug-induced homicide.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>NEVADA</u>	
Statute(s) and initial effective date(s)	NEV. REV. STAT. ANN. 453C.150 (West 2021) (eff. Oct. 1, 2015).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	Person who, in good faith, seeks medical assistance for a person who is experiencing a drug or alcohol overdose or other medical emergency or who seeks such assistance for himself or herself or who is the subject of a good faith request for such assistance. The law defines the phrase “drug or alcohol overdose” as a condition resulting from the use of a controlled substance, alcohol, or another substance in combination with one of these.
Protection as to controlled substance possession crimes	An eligible person may not be arrested, charged, prosecuted, or convicted for the offense of: <ul style="list-style-type: none"> • Possession of a controlled substance unless it is for the purpose of sale (NEV. REV. STAT. ANN. § 453.336 (West 2021)); or • Use of a controlled substance (NEV. REV. STAT. ANN. § 453.336 (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person may not be arrested, charged, prosecuted, or convicted for the offense of unlawful use or possession of drug paraphernalia (NEV. REV. STAT. ANN. § 453.566 (West 2021)).
Protection as to other crimes/violations	An eligible person may not: <ul style="list-style-type: none"> • Be penalized for violating a restraining order; • Be penalized for violating a condition of the person’s parole or probation; • Have property subjected to forfeiture; or • Be penalized under a local ordinance that establishes an offense that is similar to an offense set forth in Nev. Rev. Stat. Ann. § 453.336 (West 2021) (unlawful possession of a controlled substance).
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Evidence to support the arrest, charge, prosecution, conviction, seizure, or penalty must have been obtained as a result of the person seeking medical assistance. • Person must seek medical assistance for the person experiencing an overdose or other medical emergency. A person’s actions will be considered medical assistance if the person: <ul style="list-style-type: none"> ○ Reports a drug or alcohol overdose or other medical emergency to a member of a law enforcement agency, a 911 emergency service, a poison control center, a medical facility, or a provider of emergency medical services; ○ Assists another person making such a report;

<u>NEVADA</u>	
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> ○ Provides care to a person who is experiencing a drug or alcohol overdose or other medical emergency while awaiting the arrival of medical assistance; or ○ Delivers a person who is experiencing a drug or alcohol overdose or other medical emergency to a medical facility and notifies the appropriate authorities.
Exception(s) to protection	None.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Violations of chapter 453 of NEV. REV. STAT. (drug offenses) for which immunity is not provided.
Circumstance(s) when mitigation applies	Defendant, in good faith, sought medical assistance for a person who was experiencing a drug or alcohol overdose or other life-threatening emergency in connection with the events that constituted the violation.
Other provisions of note	The existence of the protection does not prohibit any governmental entity from taking any actions required or authorized by chapter 432B of NEV. REV. STAT. relating to the abuse or neglect of a child.
Express DIH or DDRD provision in state law	NEV. REV. STAT. ANN. § 200.010 (West 2021) (eff. as amended June 8, 2005).
Classification of DIH/DDRDR offense	Murder.
Circumstance(s) when DIH/DRDD applies	When a death was caused by a controlled substance which was sold, given, traded, or otherwise made available to a person in violation of chapter 453 of NEV. REV. STAT.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>NEW HAMPSHIRE</u>	
Statute(s) and initial effective date(s)	N.H. REV. STAT. § 318-B:28-b (West 2021) (eff. Sept. 6, 2015).
Substantive amendments to law(s)	August 17, 2021 – protection expanded to those who report that another person was the victim of a violent crime.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person in good faith and in a timely manner requests medical assistance for another person who is experiencing a drug overdose. • Person who in good faith requests or is the subject of a good faith request for medical assistance. <p>The law defines the phrases “drug overdose,” “medical assistance,” and “requests medical assistance.” A “drug overdose” is a condition resulting from the use of a controlled drug.</p>
Protection as to controlled substance possession crimes	An eligible person will not be arrested, prosecuted, or convicted for possessing, or having under his or her control, a controlled substance (N.H. REV. STAT. § 318-B:2 (West 2021)).
Protection as to drug paraphernalia crimes	None.
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	Evidence for the charge must have been gained as a proximate result of the request for medical assistance.
Exception(s) to protection	<p>The existence of the protection does not limit:</p> <ul style="list-style-type: none"> • Admissibility of evidence in connection with the investigation or prosecution of a crime involving a person who is not protected; • Lawful seizure of any evidence or contraband; or • Authority of a law enforcement officer to detain or place into custody a person as part of a criminal investigation or to arrest a person for a non-protected offense.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	The Commissioner of the Department of Health and Human Services must develop and make available on the department’s website information for the public explaining the meaning and applicability of the Good Samaritan provisions.

<u>NEW HAMPSHIRE</u>	
Express DIH or DDRD provision in state law	N.H. REV. STAT. § 318-B:26 (West 2021) (eff. as amended Sept. 16, 2017).
Classification of DIH/DDRDR offense	Felony.
Circumstance(s) when DIH/DRDD applies	Any person who manufactures, sells, or dispenses methamphetamine, lysergic acid, diethylamide phencyclidine (PCP) or any other controlled drug classified in Schedules I or II, or any controlled drug analog thereof, in violation of N.H. REV. STAT. § 318-B:2, I Or I-a (West 2021), is strictly liable for a death which results from the injection, inhalation, or ingestion of that substance.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>NEW JERSEY</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • N.J. STAT. ANN. § 2C:35-30 (West 2021) (protection for other persons experiencing a drug overdose) (eff. May 2, 2013). • N.J. STAT. ANN. § 2C:35-31 (West 2021) (protection for person experiencing a drug overdose themselves) (eff. May 2, 2013).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who, in good faith, seeks medical assistance for someone experiencing a drug overdose. • Person who experiences a drug overdose and who seeks medical assistance or is the subject of a good faith request for medical assistance.
Protection as to controlled substance possession crimes	<p>An eligible person will not be arrested, charged, prosecuted, or convicted for:</p> <ul style="list-style-type: none"> • Obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of, a controlled dangerous substance or controlled substance analog (N.J. STAT. ANN. § 2C:35-10) (West 2021)); • Inhaling the fumes of or possessing any toxic chemical (N.J. STAT. ANN. § 2C:35-10.4(b) (West 2021)); or • Using, obtaining, attempting to obtain, or possessing any prescription legend drug or stramonium preparation (N.J. STAT. ANN. § 2C:35-10.5(b), (c), or (d) (West 2021)).
Protection as to drug paraphernalia crimes	<p>An eligible person will not be arrested, charged, prosecuted, or convicted for:</p> <ul style="list-style-type: none"> • Using or possessing with intent to use drug paraphernalia (N.J. STAT. ANN. § 2C:36-2 (West 2021)); or • Having under his or her control or possessing a hypodermic syringe, hypodermic needle, or any other instrument adapted for the use of a controlled dangerous substance or a controlled substance analog (N.J. STAT. ANN. § 2C:36-6(a) (West 2021)).
Protection as to other crimes/violations	<ul style="list-style-type: none"> • An eligible person will not be arrested, charged, prosecuted, or convicted for: <ul style="list-style-type: none"> ○ Acquiring or obtaining possession of a controlled dangerous substance or controlled substance analog by fraud (N.J. STAT. ANN. § 2C:35-13 (West 2021)); or ○ Unlawfully possessing a controlled dangerous substance that was lawfully prescribed or dispensed (N.J. STAT. ANN. § 2C:35-24 (West 2021)). • An eligible person will not be subject to revocation of parole or probation based solely on a violation of the described offenses.

<u>NEW JERSEY</u>	
Requirement(s) for the protection to apply	Evidence for an arrest, charge, prosecution, conviction, or revocation must have been obtained as a result of the seeking of medical assistance.
Exception(s) to protection	<p>The existence of the protection does not limit:</p> <ul style="list-style-type: none"> • 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 or with regard to other crimes committed by a person who otherwise qualifies for protection; • Any seizure of evidence or contraband otherwise permitted by law; or • 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 other than those for which protection is offered.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	The existence of the protection does not limit any immunity from liability currently available to public entities or public employees by law.
Express DIH or DDRD provision in state law	N.J. STAT. ANN. § 2C:35-9 (West 2021) (eff. July 9, 1987).
Classification of DIH/DDRDR offense	Crime of the first degree.
Circumstance(s) when DIH/DRDD applies	Any person who manufactures, distributes or dispenses methamphetamine, lysergic acid diethylamide, phencyclidine or any other controlled dangerous substance classified in Schedules I or II, or any controlled substance analog thereof is strictly liable for a death which results from the injection, inhalation or ingestion of that substance.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>NEW MEXICO</u>	
Statute(s) and initial effective date(s)	N.M. STAT. ANN. § 30-31-27.1 (West 2021) (eff. June 15, 2007).
Substantive amendments to law(s)	<p>July 1, 2019 – amendment added the following provisions:</p> <ul style="list-style-type: none"> • Protections from being arrested, charged, prosecuted, or otherwise penalized for the possession of drug paraphernalia; • Protections from penalties for violations of restraining orders or the conditions of probation or parole; and • Made the act of seeking medical assistance for someone who is experiencing an alcohol or drug-related overdose a mitigating factor in a criminal prosecution.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who, in good faith, seeks medical assistance for someone experiencing an alcohol or drug-related overdose. • Person who experiences an alcohol or drug related overdose and is in need of medical assistance. <p>The law defines the phrase “seeking medical assistance.”</p>
Protection as to controlled substance possession crimes	An eligible person will not be arrested, charged, prosecuted, or otherwise penalized for the offense of possession of a controlled substance (N.M. STAT. ANN. § 30-31-23 (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person will not be arrested, charged, prosecuted, or otherwise penalized for the offense of possession of drug paraphernalia (N.M. STAT. ANN. § 30-31-25.1(A) (West 2021)).
Protection as to other crimes/violations	<ul style="list-style-type: none"> • An eligible person will not be arrested, charged, prosecuted, or otherwise penalized for violations of: (1) restraining orders; or (2) conditions of probation or parole. • An eligible person’s property will not be subject to civil forfeiture.
Requirement(s) for the protection to apply	Evidence for the alleged violation must have been obtained because of the need for seeking medical assistance.
Exception(s) to protection	None.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Criminal prosecution pursuant to the Controlled Substances Act for which immunity is not provided.
Circumstance(s) when mitigation applies	When a person seeks medical assistance for someone who is experiencing an alcohol or drug-related overdose.
Other provisions of note	None.

<u>NEW MEXICO</u>	
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>NEW YORK</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • N.Y. PENAL LAW § 220.78 (McKinney 2021) (eff. Sept. 18, 2011) (Good Samaritan protections). • N.Y. CRIM. PROC. LAW § 390.40 (McKinney 2021) (eff. Sept. 18, 2011) (mitigating factor in sentencing).
Substantive amendments to law(s)	March 31, 2021 – amendment adds protection against charge or prosecution for possession of cannabis by a person under age 21.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who, in good faith, seeks health care for someone who is experiencing a drug or alcohol overdose or another life-threatening medical emergency. • Person who is experiencing a drug or alcohol overdose or another life-threatening medical emergency and, in good faith, seeks health care for himself or herself or is the subject of such a good faith request for health care. <p>The law defines the phrases “drug or alcohol overdose” and “health care.” A “drug or alcohol overdose” is a condition resulting from the use of a controlled substance or alcohol.</p>
Protection as to controlled substance possession crimes	An eligible person will not be charged or prosecuted for a controlled substance offense under Penal Law, Chapter 40, Article 220 (Controlled Substance Offenses) or a marijuana offense under Penal Law, Chapter 40, Article 221 (Offenses Involving Marijuana), other than an offense involving sale for consideration or other benefit or gain.
Protection as to drug paraphernalia crimes	An eligible person will not be charged or prosecuted for the possession of drug paraphernalia (N.Y. GEN. BUS. LAW § 851 (McKinney 2021)).
Protection as to other crimes/violations	<ul style="list-style-type: none"> • Eligible person will not be charged or prosecuted for the possession of alcohol by a person under the age of 21 (N.Y. ALCOHOLIC BEV. CTRL. LAW § 65-c (McKinney 2021)). • There is an affirmative defense to a criminal sale of controlled substance offense under Article 220 or a criminal sale of marijuana offense under Article 221 with respect to any controlled substance or marijuana which was obtained as a result of such seeking or receiving of health care if the defendant has no prior conviction for the commission or attempted commission of a class A-I, A-II or B felony under Article 220.
Requirement(s) for the protection to apply	Evidence must have been obtained because of the seeking or receiving of health care.

<u>NEW YORK</u>	
Exception(s) to protection	<p>The existence of the protection does not:</p> <ul style="list-style-type: none"> • Bar the prosecution of a class A-I felony under Article 220; • Provide the affirmative defense to the prosecution of a class A-I or A-II felony criminal sale offense under Article 220; • Bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the bar to prosecution or for the affirmative defense; nor with regard to other crimes committed by a person who otherwise qualifies for protection; or • Bar any seizure pursuant to law, including but not limited the seizure and forfeiture of controlled substances (N.Y. PUB. HEALTH LAW § 3387 (McKinney 2021)).
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Any criminal prosecution for a controlled substance, marijuana, drug paraphernalia, or alcohol related offense.
Circumstance(s) when mitigation applies	When a person sought health care for someone who was experiencing a drug or alcohol overdose or another life-threatening medical emergency.
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	S.B. 1017, 244th Leg. Sess. (N.Y. 2021) (pending in Senate committee). Among other things, this bill established a new felony for homicide due to criminal sale of a controlled substance in the third degree. It would apply when the criminal sale of a controlled substance sold causes, or contributes to, the death of the person to whom the controlled substance was sold.

<u>NORTH CAROLINA</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • N.C. GEN. STAT. ANN. § 18B-302.2 (West 2021) (eff. April 9, 2013) (protections for alcohol offenses). • N.C. GEN. STAT. ANN. § 90-96.2 (West 2021) (eff. April 9, 2013) (protections for drug offenses).
Substantive amendments to law(s)	<p>August 1, 2015 – Amendments made to both statutes to add:</p> <ul style="list-style-type: none"> • Requirements and conditions for the immunity to apply; • Protections from revocation of pretrial release, probation, parole, or post-release; and • Civil liability protections for a law enforcement officer who arrests or charges a person entitled to immunity.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who sought medical assistance for an individual experiencing an alcohol or drug-related overdose by contacting the 911 system, a law enforcement officer, or emergency medical services personnel. • Person who experienced an overdose and was in need of medical assistance. <p>The law defines the phrase “drug-related overdose” as a condition resulting from the use of a controlled substance or another substance combined with one.</p>
Protection as to controlled substance possession crimes	<p>An eligible individual will not be prosecuted for:</p> <ul style="list-style-type: none"> • Misdemeanor possession of a controlled substance (N.C. GEN. STAT. ANN. § 90-95(a)(3) (West 2021)); • Felony violation of possession of less than one gram of heroin. (N.C. GEN. STAT. ANN. § 90-95(a)(3) (West 2021)); or • Felony violation of possession for less than one gram of cocaine (N.C. GEN. STAT. ANN. § 90-95(a)(3) (West 2021)).
Protection as to drug paraphernalia crimes	<p>An eligible person will not be prosecuted for the possession of drug paraphernalia (N.C. GEN. STAT. ANN. § 90-113.22 (West 2021)).</p>
Protection as to other crimes/violations	<ul style="list-style-type: none"> • Eligible person is not subject to arrest or revocation of pretrial release, probation, parole, or post-release. • Eligible person under the age of 21 will not be prosecuted for the offense of possession or consumption of alcoholic beverages (N.C. GEN. STAT. ANN. § 18B-302(b) (West 2021)).
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Act in good faith when seeking medical assistance, upon a reasonable belief that he or she was the first to call for assistance. • Provide his or her own name to the 911 system or to a law enforcement officer upon arrival. • Not seek medical assistance during the course of the execution of an arrest warrant, search warrant, or other lawful search.

<u>NORTH CAROLINA</u>	
Requirement(s) for the protection to apply (continued)	<ul style="list-style-type: none"> • Evidence for prosecution of the offenses must have been obtained as a result of the person seeking medical assistance for the alcohol or drug-related overdose.
Exception(s) to protection	<p>The existence of protection does not:</p> <ul style="list-style-type: none"> • Bar the admissibility of any evidence obtained in connection with the investigation and prosecution of: (1) other crimes committed by a person who qualifies for limited immunity; or (2) any crimes committed by a person who does not qualify for limited immunity; • Limit any seizure of evidence/contraband otherwise permitted; or • Limit or abridge the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation of, or to effectuate an arrest for, any offense other than an offense for which limited immunity is provided.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	<ul style="list-style-type: none"> • Existence of the protection does not limit or abridge the authority of a probation officer to conduct drug testing of persons on pretrial release, probation, or parole. • Law enforcement officer who, acting in good faith, arrests or charges a person who is thereafter determined to be entitled to immunity will not be subject to civil liability for the arrest or filing of charges.
Express DIH or DDRD provision in state law	N.C. GEN. STAT. ANN. § 14-17 (West 2021) (eff. as amended Dec. 1, 2017).
Classification of DIH/DDRDR offense	Second degree murder.
Circumstance(s) when DIH/DRDD applies	Death proximately caused by the unlawful distribution and ingestion of any opium, opiate, or opioid; any synthetic or natural salt, compound, derivative, or preparation of opium, or opiate, or opioid; cocaine or other substance described in N.C. GEN. STAT. ANN. § 90-90(1)d (West 202); methamphetamine; or a depressant described in N.C. GEN. STAT. ANN. § 90-92(a)(1) (West 2021).
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>NORTH DAKOTA</u>	
Statute(s) and initial effective date(s)	N.D. CENT. CODE ANN. § 19-03.1-23.4 (West 2021) (eff. Aug. 1, 2015).
Substantive amendments to law(s)	August 1, 2017 – Amendment added: <ul style="list-style-type: none"> • Immunity protections for the individual who experiences a drug-related overdose in addition to the individual who sought medical assistance; and • Additional requirements for the immunity to apply.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Individual who experiences a drug-related overdose and needs emergency medical assistance. • Individual who in good faith sought medical assistance for another individual in need of emergency medical assistance due to a drug overdose.
Protection as to controlled substance possession crimes	<p>An eligible individual is immune from criminal prosecution for the offenses of:</p> <ul style="list-style-type: none"> • Use or possession of a controlled substance or controlled substance analog (N.D. CENT. CODE ANN. §§ 19-03.1-22.3 and 19-03.1-23(7) (West 2021)); and • Use or possession of an imitation controlled substance (N.D. CENT. CODE ANN. § 19-03.2-03(3) (West 2021)).
Protection as to drug paraphernalia crimes	An eligible individual is immune from criminal prosecution for the offense of possession of drug paraphernalia (N.D. CENT. CODE ANN. § 19-03.4-03 (West 2021)).
Protection as to other crimes/violations	An eligible individual is immune from criminal prosecution for the offense of intentional inhalation of a volatile chemical (N.D. CENT. CODE ANN. § 19-03.1-22.1 (West 2021)).
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Individual seeking medical assistance must remain on the scene until assistance arrives and cooperate with first responders. • Overdosed individual must have been in a condition a layperson would reasonably believe to be a drug overdose requiring immediate medical assistance. • Evidence for the charge or prosecution must have been obtained as a result of the drug-related overdose and the need for emergency medical assistance.
Exception(s) to protection	Good faith does not include seeking medical assistance during the execution of an arrest warrant or search warrant or during a lawful search.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A

<u>NORTH DAKOTA</u>	
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	N.D. CENT. CODE ANN. § 19-03.1-23.1(1)(d) (West 2021) (eff. Aug. 1, 2021).
Classification of DIH/DDRDR offense	Felony.
Circumstance(s) when DIH/DRDD applies	When the defendant sells, distributes, delivers, or conspires to deliver a controlled substance to an individual which results in the death of the individual due to the use of that controlled substance and the death of the individual would not have occurred in the absence of the defendant's conduct.
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>OHIO</u>	
Statute(s) and initial effective date(s)	OHIO REV. CODE ANN. § 2925.11(B)(2) (West 2021) (eff. Sept. 13, 2016).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose. • Person who experiences a drug overdose and who seeks medical assistance for that overdose. • Person who is the subject of another person seeking or obtaining medical assistance for that overdose. <p>Each of the above persons is termed a “qualified individual.” The law also defines the phrase “seek or obtain medical assistance.”</p>
Protection as to controlled substance possession crimes	A qualified individual will not be arrested, charged, prosecuted, or convicted for a minor drug possession offense.
Protection as to drug paraphernalia crimes	None.
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Evidence of the obtaining, possession, or use of the controlled substance or controlled substance analog that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance. • Within 30 days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional. • Qualified individual who obtains a screening and receives a referral for treatment, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that division.
Exception(s) to protection	<ul style="list-style-type: none"> • No person can be granted immunity under this provision more than two times. • Qualified individual does not include a person who is on community control or post-release control.

<u>OHIO</u>	
Exception(s) to protection (continued)	<ul style="list-style-type: none"> • The existence of the protection does not limit the: <ul style="list-style-type: none"> ○ 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 or with regard to any crime other than a minor drug possession offense committed by a person who qualifies for protection; ○ Limit any seizure of evidence or contraband otherwise permitted by law; or ○ Authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense other than the offenses for which immunity is provided.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	If a person is found to be in violation of any community control sanction or post-release control sanction and if the violation is a result of: (1) seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose; or (2) experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose, then the court or the parole board must first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty. The court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor.
Circumstance(s) when mitigation applies	<ul style="list-style-type: none"> • Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose. • Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose.
Other provisions of note	<p>The existence of the protection does not:</p> <ul style="list-style-type: none"> • Limit any immunity from liability available pursuant to the law in effect prior to September 13, 2016, to any public agency, or to an employee of any public agency; or • Compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996," and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.

<u>OHIO</u>	
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>OKLAHOMA</u>	
Statute(s) and initial effective date(s)	OKLA. STAT. ANN. tit. 63, § 2-413.1 (West 2021) (eff. Nov. 1, 2018).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	Person who 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.
Protection as to controlled substance possession crimes	An eligible person is immune from criminal prosecution for the offense of possession of a Schedule I (OKLA. STAT. ANN. tit. 63, § 2-204 (West 2021)) or Schedule II (OKLA. STAT. ANN. tit. 63, § 2-206 (West 2021)) controlled dangerous substance, provided the amount of such controlled dangerous substance does not constitute trafficking (OKLA. STAT. ANN. tit. 63, § 2-415(C) (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person is immune from criminal prosecution for the offense of possession of drug paraphernalia.
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Provide his or her full name and any other relevant information requested by the peace officer. • Remain at the scene with the individual who reasonably appeared to need medical assistance due to the use of a controlled dangerous substance until emergency medical assistance arrived. • Cooperate with emergency medical assistance personnel and peace officers at the scene.
Exception(s) to protection	None.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	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 immunity provisions.
Express DIH or DDRD provision in state law	OKLA. STAT. ANN. tit. 21, § 701.7 (West 2021) (eff. as amended Nov. 1, 2012).

<u>OKLAHOMA</u>	
Classification of DIH/DDRD offense	First degree murder.
Circumstance(s) when DIH/DRDD applies	<ul style="list-style-type: none"> • If the death of a human being results from the unlawful distributing or dispensing of controlled dangerous substances or synthetic controlled substances, trafficking in illegal drugs, or manufacturing or attempting to manufacture a controlled dangerous substance. • When a person unlawfully and with malice aforethought solicits another person or persons to cause the death of a human being in furtherance of unlawfully manufacturing, distributing or dispensing controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, unlawfully possessing with intent to distribute or dispense controlled dangerous substances or trafficking in illegal drugs.
Affirmative defense of DIH/DDRD offense	None.
Recently proposed legislation	None.

<u>OREGON</u>	
Statute(s) and initial effective date(s)	OR. REV. STAT. ANN. § 475.898 (West 2021) (eff. Jan. 1, 2016).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who contacts emergency medical services or law enforcement agency to obtain medical assistance for another person who needs medical assistance due to a drug-related overdose. • Person who needs medical assistance due to a drug-related overdose. <p>The law defines the phrase “drug-related overdose” as a condition resulting from the use of a controlled substance or another substance combined with one.</p>
Protection as to controlled substance possession crimes	<p>An eligible person is immune from arrest or prosecution for the offenses of:</p> <ul style="list-style-type: none"> • Possession of a controlled substance (OR. REV. STAT. ANN. § 475.752(3) (West 2021)); • Unlawful possession of hydrocodone (OR. REV. STAT. ANN. § 475.814 (West 2021)); • Unlawful possession of methadone (OR. REV. STAT. ANN. § 475.824 (West 2021)); • Unlawful possession of oxycodone (OR. REV. STAT. ANN. § 475.834 (West 2021)); • Unlawful possession of heroin (OR. REV. STAT. ANN. § 475.854 (West 2021)); • Unlawful possession of 3,4-methylenedioxymethamphetamine (OR. REV. STAT. ANN. § 475.874 (West 2021)); • Unlawful possession of cocaine (OR. REV. STAT. ANN. § 475.884 (West 2021)); • Unlawful possession of methamphetamine (OR. REV. STAT. ANN. § 475.894 (West 2021)); and • Unlawfully possessing a prescription drug (OR. REV. STAT. ANN. § 689.527 (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person is immune from arrest or prosecution for the offense of unlawful possession of drug paraphernalia with the intent to sell or deliver (OR. REV. STAT. ANN. § 475.525(1) (West 2021)).
Protection as to other crimes/violations	<ul style="list-style-type: none"> • An eligible person is immune from arrest or prosecution for the offense of frequenting a place where controlled substances are used (OR. REV. STAT. ANN. § 167.222 (West 2021)).

<u>OREGON</u>	
Protection as to other crimes/violations (continued)	<ul style="list-style-type: none"> • A person may not be arrested: <ul style="list-style-type: none"> ○ For violating the conditions of the person's pretrial release, probation, post-prison supervision or parole if the violation involves the possession or use of a controlled substance or frequenting a place where controlled substances are used; or ○ On an outstanding warrant for any of the offenses in which immunity is available, or on an outstanding warrant for a violation, other than commission of a new crime, of the conditions of the person's probation, post-prison supervision or parole for conduct that would constitute an offense for which immunity is available.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Evidence of the offense or violation must have been obtained because of the need for emergency medical services.
Exception(s) to protection	<ul style="list-style-type: none"> • Protection against arrest on an outstanding warrant does not apply to outstanding federal warrants or outstanding warrants issued from other states. • Immunity from arrest and prosecution is not grounds for the suppression of evidence relating to a criminal offense other than the offenses for which immunity is provided.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	H.B. 2602, 81st Leg. Assemb. (Or. 2021) (bill died upon legislature's adjournment). The bill would establish a new Class A felony for a person who unlawfully delivers a controlled substance that results in the death of another person.

<u>PENNSYLVANIA</u>	
Statute(s) and initial effective date(s)	35 PA. STAT. AND CONS. STAT. § 780-113.7 (West 2021) (eff. Dec. 1, 2014).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who reported, in good faith, a drug overdose event to a law enforcement officer, the 911 system, campus security officer, or emergency services personnel. • Person experiencing a drug overdose event. <p>The law defines the phrase “drug overdose event” as a condition resulting from the use of one or more controlled substances.</p>
Protection as to controlled substance possession crimes	<p>An eligible person will not be charged and will be immune from prosecution for the:</p> <ul style="list-style-type: none"> • Known or intentional possession of a controlled or counterfeit substance (35 PA. STAT. AND CONS. STAT. § 780-113(16) (West 2021)); or • Possession or distribution of a small amount of marijuana without the intent to sell it (35 PA. STAT. AND CONS. STAT. § 780-113(31) (West 2021)).
Protection as to drug paraphernalia crimes	<p>An eligible person will not be charged and will be immune from prosecution for the:</p> <ul style="list-style-type: none"> • Use of, or possession with intent to use, drug paraphernalia (35 PA. STAT. AND CONS. STAT. § 780-113(32) (West 2021)); or • Delivery of, possession with intent to deliver, or manufacture with intent to deliver, drug paraphernalia (35 PA. STAT. AND CONS. STAT. § 780-113(33) (West 2021)).
Protection as to other crimes/violations	<p>An eligible person will not be charged and will be immune from prosecution for:</p> <ul style="list-style-type: none"> • Probation or parole violation; • Adulteration, mutilation, destruction, obliteration or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a controlled substance, other drug, device or cosmetic, if such act is done while such substance or article is held for sale and results in such substance or article being adulterated or misbranded (35 PA. STAT. AND CONS. STAT. § 780-113(5) (West 2021)); • Intentional purchase or knowing receipt in commerce by any person of any controlled substance, other drug or device from any person not authorized by law to sell, distribute, dispense, or otherwise deal in such controlled substance, other drug, or device (35 PA. STAT. AND CONS. STAT. § 780-113(19) (West 2021)); or

<u>PENNSYLVANIA</u>	
Protection as to other crimes/violations (continued)	<ul style="list-style-type: none"> • Possession by any person, other than a registrant, of more than 30 doses labeled as a dispensed prescription or more than three trade packages of any anabolic steroids (35 PA. STAT. AND CONS. STAT. § 780-113(37) (West 2021)).
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Report made on the reasonable belief that another person was in need of immediate medical attention and was necessary to prevent death or serious bodily injury due to a drug overdose. • Person seeking assistance provides his or her own name and location and cooperated with the law enforcement officer, 911 system, campus security officer, or emergency services personnel. • Person seeking assistance remains with the person needing immediate medical attention until a law enforcement officer, a campus security officer, or emergency services personnel arrived.
Exception(s) to protection	<p>The existence of protection does not:</p> <ul style="list-style-type: none"> • Bar charging or prosecuting a person for offenses in which protections available if a law enforcement officer obtains information prior to or independent of the action of seeking or obtaining emergency assistance; • Interfere with or prevent the investigation, arrest, charging, or prosecution of a person for the delivery or distribution of a controlled substance, drug-induced homicide, or any other crime for which protections are not provided; • Bar the admissibility of any evidence in connection with the investigation and prosecution for any other prosecution not barred by immunity; or • Bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the prohibition on charging or prosecuting a person.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	A law enforcement officer or prosecuting attorney who, acting in good faith, charges a person who is thereafter determined to be entitled to immunity under this section will not be subject to civil liability for the filing of the charges.

<u>PENNSYLVANIA</u>	
Express DIH or DDRD provision in state law	18 PA. STAT. AND CONS. STAT. § 2506 (West 2021) (eff. as amended Aug. 18, 2014).
Classification of DIH/DDRDR offense	Felony of the first degree.
Circumstance(s) when DIH/DRDD applies	A person intentionally administers, dispenses, delivers, gives, prescribes, sells, or distributes any controlled substance or counterfeit controlled substance and another person dies because of using the substance.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>RHODE ISLAND</u>	
Statute(s) and initial effective date(s)	R.I. GEN. LAWS. § 21-28.9-4 (West 2021) (eff. Jan. 27, 2016).
Substantive amendments to law(s)	July 2, 2018 – amendment added: <ul style="list-style-type: none"> • Language on alcohol-related medical emergencies in addition to drug-related medical emergencies; and • Immunity for the offense of possession or transportation of alcohol by an underage person.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who, in good faith, without malice and in the absence of evidence of an intent to defraud, seeks medical assistance for someone experiencing a drug or alcohol overdose or another drug or alcohol-related medical emergency. • Person who experiences a drug or alcohol overdose or other drug or alcohol-related medical emergency and needs medical assistance.
Protection as to controlled substance possession crimes	An eligible person will not be charged or prosecuted for any crime related to the possession of a controlled substance.
Protection as to drug paraphernalia crimes	An eligible person will not be charged or prosecuted for any crime related to the possession of drug paraphernalia.
Protection as to other crimes/violations	<ul style="list-style-type: none"> • An eligible person will not be charged or prosecuted for: (1) operation of a drug-involved premise; or (2) possession or transportation of alcohol by an underage person. • Immunity provided in the section extends to a violation of probation or parole on those grounds.
Requirement(s) for the protection to apply	Evidence for the charge must have been gained because of the overdose and the need for medical assistance.
Exception(s) to protection	None.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Criminal prosecution pursuant to the Controlled Substances Act.
Circumstance(s) when mitigation applies	When a person provides first aid or other medical assistance to someone who is experiencing a drug or alcohol overdose or another drug or alcohol-related medical emergency.
Other provisions of note	None.

<u>RHODE ISLAND</u>	
Express DIH or DDRD provision in state law	R.I. GEN. LAWS, §§ 11-23-6 to 23-7 (West 2021) (eff. as amended June 29, 2018).
Classification of DIH/DRDD offense	Felony.
Circumstance(s) when DIH/DRDD applies	<ul style="list-style-type: none"> • Any person who sells, delivers, or distributes a controlled substance, the sale of which would constitute a felony under chapter 28 of title 21, to a minor, or knowingly provides a controlled substance for sale, delivery, or distribution to a minor, and death has resulted to the minor because of the ingestion orally or the injection or inhalation of the controlled substance. • As a result of an unlawful delivery of a controlled substance in exchange for anything of value to an adult, death results to that adult because of the ingestion orally or the injection or inhalation of the controlled substance. • As a result of an unlawful delivery of a controlled substance to another person who subsequently delivers such controlled substance to an adult, death results to that adult because of the ingestion orally or the injection or inhalation of the controlled substance.
Affirmative defense of DIH/DRDD offense	An eligible person will not be charged or prosecuted for the offense of controlled substance delivery resulting in death if a person, in good faith, without malice and in the absence of evidence of an intent to defraud, sought medical assistance for someone experiencing a controlled substance overdose and the evidence for the charge was gained because of the seeking of medical assistance. The protection only applies to the death of an adult and does not apply to the offense of controlled substance transaction resulting in death of a minor.
Recently proposed legislation	None.

<u>SOUTH CAROLINA</u>	
Statute(s) and initial effective date(s)	S.C. CODE ANN. §§ 44-53-1910 to 53-1970 (West 2021) (eff. June 10, 2017).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who seeks medical assistance for another person who appears to be experiencing a drug or alcohol-related overdose. • Person who experiences a drug or alcohol-related overdose and needs medical assistance. <p>The law defines the phrases “drug or alcohol-related overdose” and “seeks medical assistance.” A “drug or alcohol-related overdose” is a condition resulting from the use of a controlled substance, alcohol, or another substance combined with one of these.</p>
Protection as to controlled substance possession crimes	<p>An eligible person will not be prosecuted for:</p> <ul style="list-style-type: none"> • Possessing a controlled substance (S.C. CODE ANN. § 44-53-370(c) (West 2021)); or • Possessing less than one gram of methamphetamine or cocaine base (S.C. CODE ANN. § 44-53-375(A) (West 2021)).
Protection as to drug paraphernalia crimes	<p>An eligible person will not be prosecuted for:</p> <ul style="list-style-type: none"> • Possessing drug paraphernalia (S.C. CODE ANN. § 44-53-391 (West 2021)); or • Selling or delivering drug paraphernalia when the sale or delivery is to the person who appears to be experiencing a drug-related overdose (S.C. CODE ANN. § 44-53-391 (West 2021)).
Protection as to other crimes/violations	<p>An eligible person will not be prosecuted for:</p> <ul style="list-style-type: none"> • Dispensing or delivering a controlled substance when the controlled substance is dispensed or delivered directly to the person who appears to be experiencing a drug-related overdose (S.C. CODE ANN. § 44-53-370(a) (West 2021)); • Dispensing or delivering methamphetamine or cocaine when the methamphetamine or cocaine base is dispensed or delivered directly to the person who appears to be experiencing a drug-related overdose (S.C. CODE ANN. § 44-53-375(B) (West 2021)); • Purchasing, attempting to purchase, consuming, or knowingly possessing alcoholic beverages by an individual under the age of 21 (S.C. CODE ANN. § 63-19-2440 (West 2021)); • Transferring or giving beer or wine to a person under the age of 21 for consumption (S.C. CODE ANN. § 61-4-90 (West 2021)); or • Contributing to the delinquency of a minor (S.C. CODE ANN. § 16-17-490 (West 2021)).

<u>SOUTH CAROLINA</u>	
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Evidence for the prosecution must have been obtained as a result of the person seeking medical assistance for the apparent overdose on the premises or immediately after seeking medical assistance. • Person reporting the overdose must: <ul style="list-style-type: none"> ○ Act in good faith and upon a reasonable belief that he or she was the first person to call for assistance; ○ Provide his or her own name to the 911 system or to a law enforcement officer upon arrival; ○ Not seek medical assistance during the execution of an arrest warrant, search warrant, or other lawful search; and ○ Remain with the individual needing medical assistance until help arrives.
Exception(s) to protection	If the person seeking medical assistance pursuant to this section previously has sought medical assistance for another person pursuant to this article, the court may consider the circumstances of the prior incidents and the related offenses to determine whether to grant the person immunity from prosecution.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Criminal prosecution or sentencing for a drug or alcohol-related offense.
Circumstance(s) when mitigation applies	When a person sought medical assistance for someone experiencing an overdose.
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	H.B. 3288, 124th Gen. Assemb., 1st Reg. Sess. (S.C. 2021) (pending in House committee). The bill would establish the offense of homicide by fentanyl, morphine, methamphetamine, or heroin if the person: (1) causes the death of a person while giving, selling, or distributing these substances; or (2) knowingly aids or abets another person who causes the death of someone by giving, selling, or distributing these substances.

<u>SOUTH DAKOTA</u>	
Statute(s) and initial effective date(s)	S.D. CODIFIED LAWS §§ 34-20A-109 to 20A-113 (West 2021) (eff. Mar. 13, 2017).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who contacts any law enforcement or emergency medical services and reports that a person is in need of emergency medical assistance as the result of a drug-related overdose. • Person who experiences a drug-related overdose and needs medical assistance. <p>The law defines the phrase “drug-related overdose” as a condition resulting from the use of a controlled substance or another substance combined with one.</p>
Protection as to controlled substance possession crimes	An eligible person will not be arrested or prosecuted for any misdemeanor or felony offense of possession, inhalation, ingestion, or otherwise taking into the body any controlled drug or substance.
Protection as to drug paraphernalia crimes	None.
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Evidence for the charge or prosecution must have been obtained as a result of the person seeking medical assistance as the result of a drug-related overdose. • Person seeking medical assistance for another person remains on the scene and cooperates with medical assistance and law enforcement personnel.
Exception(s) to protection	A person can only qualify for immunity once.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Criminal prosecution for which immunity is not provided.
Circumstance(s) when mitigation applies	When a person provides first aid or other medical assistance to someone who is experiencing a drug-related overdose.
Other provisions of note	None.
Express DIH or DDRD provision in state law	S.D. CODIFIED LAWS § 22-42-2 (West 2021) (eff. July 1, 2018).

<u>SOUTH DAKOTA</u>	
Classification of DIH/DDRD offense	The principal felony is increased by two levels, up to a Class C Felony.
Circumstance(s) when DIH/DRDD applies	Any person who, for consideration, intentionally distributes any controlled or counterfeit substance and another person dies as a direct result of using that substance.
Affirmative defense of DIH/DDRD offense	None
Recently proposed legislation	None.

<u>TENNESSEE</u>	
Statute(s) and initial effective date(s)	TENN. CODE ANN. § 63-1-156 (West 2021) (eff. July 1, 2015).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who in good faith seeks medical assistance for a person experiencing or believed to be experiencing a drug overdose. • Person who is experiencing a drug overdose and who in good faith seeks medical assistance, or is the subject of a request, for medical assistance. <p>The law defines the phrases “drug overdose,” “medical assistance,” and “seeks medical assistance.” A “drug overdose” is a condition resulting from the use of a controlled substance or another substance inhaled, ingested, injected, or introduced.</p>
Protection as to controlled substance possession crimes	An eligible person will not be arrested, charged, or prosecuted for the offense of simple possession or casual exchange of a controlled substance (TENN. CODE ANN. § 39-17-418 (West 2021)).
Protection as to drug paraphernalia crimes	An eligible person will not be arrested, charged, or prosecuted for the offense of possession of drug paraphernalia (TENN. CODE ANN. § 39-17-425 (West 2021)).
Protection as to other crimes/violations	<p>An eligible person will not be subject to:</p> <ul style="list-style-type: none"> • Penalties for a violation of a permanent or temporary protective order or restraining order; or • Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole based on a drug violation.
Requirement(s) for the protection to apply	Evidence for the arrest, charge, or prosecution of the drug violation must have resulted from the seeking of medical assistance.
Exception(s) to protection	<ul style="list-style-type: none"> • The immunity from being arrested, charged, or prosecuted applies to the person experiencing a drug overdose only on the eligible person’s first such drug overdose. • The existence of the protections does not limit: <ul style="list-style-type: none"> ○ 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 or with regard to other crimes committed by a person who otherwise qualifies for the protections; ○ Any seizure of evidence or contraband otherwise permitted by law; or

<u>TENNESSEE</u>	
Exception(s) to protection (continued)	<ul style="list-style-type: none"> ○ Authority of a law enforcement officer to detain or take into custody a person during an investigation or to effectuate an arrest for any offense except those for which protections are provided.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Criminal prosecution for which immunity is not provided.
Circumstance(s) when mitigation applies	A person provides first aid or other medical assistance to someone who is experiencing a drug overdose.
Other provisions of note	None.
Express DIH or DDRD provision in state law	TENN. CODE ANN. § 39-13-210 (West 2021) (eff. as amended July 1, 2018).
Classification of DIH/DRDD offense	Second degree murder.
Circumstance(s) when DIH/DRDD applies	<ul style="list-style-type: none"> • Death that results from the unlawful distribution of any Schedule I or Schedule II drug, when the drug is the proximate cause of the death of the user. • Death of another by unlawful distribution or unlawful delivery or unlawful dispensation of fentanyl or carfentanil, when those substances alone, or in combination with any substance scheduled as a controlled substance by the Tennessee Drug Control Act of 1989, including controlled substance analogs, is the proximate cause of the death of the user.
Affirmative defense of DIH/DRDD offense	None.
Recently proposed legislation	None.

<u>TEXAS</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • TEX. HEALTH & SAFETY CODE ANN. §§ 481.115 to .118 (West 2021) (eff. September 1, 2021) (protection for the possession of a substance in Penalty Group 1, 1-B, 1-A, 2, 2-A, 3 or 4). • TEX. HEALTH & SAFETY CODE ANN. § 481.119 (West 2021) (eff. September 1, 2021) (protection for the manufacture, delivery, or possession of miscellaneous substances). • TEX. HEALTH & SAFETY CODE ANN. § 481.121 (West 2021) (eff. September 1, 2021) (protection for possession of marijuana). • TEX. HEALTH & SAFETY CODE ANN. § 481.125 (West 2021) (eff. September 1, 2021) (protection for drug paraphernalia offenses). • TEX. HEALTH & SAFETY CODE ANN. § 485.031 (West 2021) (eff. September 1, 2021) (protection for abusable volatile chemicals). • TEX. HEALTH & SAFETY CODE ANN. § 483.041 (West 2021) (eff. September 1, 2021) (protection for possession of a dangerous drug without a prescription).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • First person who requests emergency medical assistance in response to the possible overdose of another person. • Victim of a possible overdose for which medical assistance is requested by the victim or other person during the medical emergency.
Protection as to controlled substance possession crimes	<p>An eligible person has an affirmative defense to prosecution for:</p> <ul style="list-style-type: none"> • Possession of substances classified in Penalty Groups 1, 1-B, 1-A, 2, 2-A, 3 or 4; • Possession of marijuana; • Possession of dangerous drugs; and • Possession, manufacture, or delivery of miscellaneous substances.
Protection as to drug paraphernalia crimes	An eligible person has a defense to prosecution for the offense of possession or delivery of drug paraphernalia.
Protection as to other crimes/violations	None
Requirement(s) for the protection to apply	The person requesting medical assistance must: (1) be the first person to make the request for the possible overdose; (2) make the request during an ongoing medical emergency; (3) remain on-scene until assistance arrives; and (4) cooperate with medical assistance and law enforcement personnel.

<u>TEXAS</u>	
Exception(s) to protection	<ul style="list-style-type: none"> • The defense is unavailable if the: <ul style="list-style-type: none"> ○ Request for aid occurs in the midst of a law enforcement arrest or execution of a search warrant; ○ Request for aid occurs while the eligible person commits another offense not subject to the protection; ○ Person has a prior conviction for a covered offense or a prior placement on deferred adjudication community supervision for any covered offenses; ○ Person successfully relied on the defense to gain acquittal previously; or ○ Person previously requested emergency medical assistance for a possible overdose during the prior 18 months. • The defense 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 this defense is not available.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DRDD offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DRDD offense	N/A
Recently proposed legislation	None.

UTAH	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • UTAH CODE ANN. § 58-37-8(16) (West 2021) (eff. Mar. 20, 2014) (Good Samaritan protections). • UTAH CODE ANN. § 76-3-203.11 (West 2021) (eff. Mar. 20, 2014) (mitigating factor in sentencing).
Substantive amendments to law(s)	May 12, 2020 – amendment adds protection for persons or bystanders who assist a person who reports an overdose.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who reports in good faith an overdose event to a medical provider, an emergency medical services provider, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system. • Person who assists another who reports the overdose as above. • Person who is the subject of an overdose report.
Protection as to controlled substance possession crimes	An eligible person has an affirmative defense to an allegation of the commission of the following offenses: (1) possession or use of less than 16 ounces of marijuana; and (2) possession or use of a scheduled or listed controlled substance other than marijuana.
Protection as to drug paraphernalia crimes	An eligible person has an affirmative defense to an allegation of any violation of the Utah Drug Paraphernalia Act (UTAH CODE ANN. §§ 58-37a-1 to 37a-7 (West 2021)).
Protection as to other crimes/violations	An eligible person has an affirmative defense to an allegation of any violation of the Imitation Controlled Substances Act (UTAH CODE ANN. §§ 58-37b-1 to 37b-9 (West 2021)).
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Provide a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event. • Remain at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives. • Cooperate with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body. • Offense must be allegedly committed in the same course of events from which the reported overdose arose.
Exception(s) to protection	Good faith does not include seeking medical assistance under this section during a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

<u>UTAH</u>	
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Offenses under Utah's Controlled Substances Act (Chapter 37 of Title 58 of the Utah Code).
Circumstance(s) when mitigation applies	When a person reports in good faith an overdose event to a medical provider, an emergency medical service provider, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system.
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>VERMONT</u>	
Statute(s) and initial effective date(s)	VT. STAT. ANN. tit. 18, § 4254 (West 2021) (eff. June 5. 2013).
Substantive amendments to law(s)	June 17, 2014 – amendment added protections for a person who is the subject of a good faith request for medical assistance in addition to a person who seeks medical assistance for a drug overdose.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who, in good faith and in a timely manner, seeks medical assistance for someone who is experiencing a drug overdose. • Person who is experiencing a drug overdose and, in good faith, seeks medical assistance for himself or herself or is the subject of a good faith request for medical assistance. <p>The law defines the phrases “drug overdose,” “medical assistance,” and “seeks medical assistance.” A “drug overdose” is a condition resulting from the use of a “regulated drug.”</p>
Protection as to controlled substance possession crimes	An eligible person will not be cited, arrested, or prosecuted for a violation of VT. STAT. ANN. tit. 18, §§ 4201 to 4255 (West 2021) (“Possession and Control of Regulated Drugs”).
Protection as to drug paraphernalia crimes	Vermont does not criminalize the possession of drug paraphernalia.
Protection as to other crimes/violations	<ul style="list-style-type: none"> • An eligible person will not be cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under the age of 21 (VT. STAT. ANN. tit. 7, § 656 (West 2021)) or for providing to or enabling consumption of alcohol by someone under the age of 21 (VT. STAT. ANN. tit. 7, § 658(a)-(c) (West 2021)). • An eligible person has protection from: <ul style="list-style-type: none"> ○ Any of the penalties for violation of a protection order; ○ Any sanctions for a violation of a condition of pretrial release, probation, furlough, or parole; or ○ Having property subject to civil forfeiture, except that prima facie contraband will be subject to forfeiture.
Requirement(s) for the protection to apply	Evidence must have been gained as a proximate result of the person’s seeking medical assistance for a drug overdose, being the subject of a good faith request for medical assistance, being at the scene, or being within close proximity to any person at the scene of the drug overdose for which medical assistance was sought.
Exception(s) to protection	The immunity provisions do not preclude prosecution of the person based on evidence obtained from an independent source.
Reporting overdose a mitigating factor in sentencing	Yes.

<u>VERMONT</u>	
Offenses subject to mitigation	Any non-protected offense.
Circumstance(s) when mitigation applies	When a person seeks medical assistance for someone who is experiencing a drug overdose.
Other provisions of note	Except in cases of reckless or intentional misconduct, law enforcement will be immune from liability for citing or arresting a person who is later determined to qualify for immunity.
Express DIH or DDRD provision in state law	VT. STAT. ANN. tit. 18, § 4250 (West 2021) (eff. June 4, 2003).
Classification of DIH/DDRDR offense	Felony.
Circumstance(s) when DIH/DRDD applies	If the death of a person results from the selling or dispensing of a regulated drug to the person, and the person's use of the regulated drug is the proximate cause of the death.
Affirmative defense of DIH/DDRDR offense	VT. STAT. ANN. tit. 18, § 4250 (West 2021) is within Chapter 84 of the Vermont Statutes. Thus, a person eligible for Good Samaritan protection under VT. STAT. ANN. tit. 18, § 4254 (West 2021) may not be cited, arrested, or prosecuted under VT. STAT. ANN. tit. 18, § 4250 (West 2021).
Recently proposed legislation	None.

<u>VIRGINIA</u>	
Statute(s) and initial effective date(s)	VA. CODE ANN. § 18.2-251.03 (West 2021) (July 1, 2015).
Substantive amendments to law(s)	<ul style="list-style-type: none"> • July 1, 2019 – amendment removed requirement that an eligible individual substantially cooperate in an investigation of any related criminal offense if requested by law enforcement. • July 1, 2020 – amendment to law: <ul style="list-style-type: none"> ○ Changes the nature of the protection from an affirmative defense to protection from arrest or prosecution; ○ Expands protection to an individual experiencing an overdose for whom another individual, in good faith, seeks or obtains emergency medical attention; and ○ Specifies that a law enforcement officer acting in good faith will not be liable for false arrest. • July 1, 2021 – protection expanded to include individuals who render emergency care or assistance while others seek or obtain emergency medical attention.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Individual experiencing an overdose who either: (1) in good faith seeks or obtains emergency medical attention for himself or herself; or (2) has someone else seek or obtain emergency medical attention. • Individual who in good faith seeks or obtains emergency medical attention for another individual if such other individual is experiencing an overdose. • Individual who in good faith renders emergency care or assistance to another individual who is experiencing an overdose while another individual seeks or obtains emergency medical attention. <p>The law defines the term “overdose” as a condition resulting from the use of a controlled substance, alcohol, or a combination of these.</p>
Protection as to controlled substance possession crimes	An eligible individual will not be arrested or prosecuted for the offense of: (1) possession of a controlled substance (VA. CODE ANN. § 18.2-250 (West 2021)); or (2) possession of marijuana (VA. CODE ANN. § 18.2-250.1 (West 2021)).
Protection as to drug paraphernalia crimes	An eligible individual will not be arrested or prosecuted for the offense of possession of controlled paraphernalia (VA. CODE ANN. § 54.1-3466 (West 2021)).
Protection as to other crimes/violations	An eligible individual will not be arrested or prosecuted for: (1) unlawful purchase, possession, or consumption of alcohol by an individual under the age of 21 (VA. CODE ANN. § 4.1-305 (West 2021)); or (2) offense of public intoxication (VA. CODE ANN. § 18.2-388 (West 2021)).

<u>VIRGINIA</u>	
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • The reporting individual must: <ul style="list-style-type: none"> ○ Remain at the scene of the overdose or at any alternative location to which the individual or the person requiring emergency medical attention has been transported until a law enforcement officer responds to the report of an overdose; and ○ Identify himself or herself to the law enforcement officer who responds to the report of the overdose. • Evidence for the prosecution of an offense must have been obtained because of the individual seeking or obtaining emergency medical attention.
Exception(s) to protection	<ul style="list-style-type: none"> • Protections do not apply to any person who seeks or obtains emergency medical attention for himself or herself or another individual, or to a person experiencing an overdose when another individual seeks or obtains emergency medical attention for him or her, during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest. • Law does not establish protection from arrest or prosecution for any individual or offense not listed in the section.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	A law enforcement officer acting in good faith will not be found liable for false arrest if it is later determined that the person arrested was immune from prosecution.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Proposed legislation	H.B. 2144, 2021 Reg. Sess. (Va. 2021) (bill died upon legislature's adjournment). The bill would have amended the felony homicide statute to include the manufacture, sale, gift, or distribution of a controlled substance to another person resulting in death.

<u>WASHINGTON</u>	
Statute(s) and initial effective date(s)	<ul style="list-style-type: none"> • WASH. REV. CODE ANN. § 9.94A.535(1)(i) (West 2021) (eff. June 10, 2010) (mitigating factor for sentencing). • WASH. REV. CODE ANN. § 69.50.315 (West 2021) (eff. June 10, 2010) (Good Samaritan protections).
Substantive amendments to law(s)	No.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person acting in good faith who seeks medical assistance for someone experiencing a drug-related overdose. • Person who experiences a drug-related overdose and is in need of medical assistance.
Protection as to controlled substance possession crimes	An eligible person will not be charged or prosecuted for: (1) possession of a controlled substance (WASH. REV. CODE ANN. § 69.50.4013 (West 2021)); or (2) possession of 40 grams or less of marijuana (WASH. REV. CODE ANN. § 69.50.4014 (West 2021)).
Protection as to drug paraphernalia crimes	None.
Protection as to other crimes/violations	None.
Requirement(s) for the protection to apply	Evidence for the charge must have been obtained because of the overdose and the need for medical assistance.
Exception(s) to protection	The existence of the protection is not grounds for suppression of evidence in other criminal charges.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Any offense.
Circumstance(s) when mitigation applies	When the defendant made a good faith effort to obtain or provide medical assistance for someone who was experiencing a drug-related overdose.
Other provisions of note	None.
Express DIH or DDRD provision in state law	WASH. REV. CODE ANN. § 69.50.415 (West 2021) (eff. Mar. 28, 1996).
Classification of DIH/DDRDR offense	Class B felony.

<u>WASHINGTON</u>	
Circumstance(s) when DIH/DRDD applies	When a person unlawfully delivers a controlled substance in violation of WASH. REV. CODE ANN. § 69.50.401(2) (a), (b), or (c) (West 2021) and the controlled substance is subsequently used by the person to whom it was delivered, resulting in the death of the user.
Affirmative defense of DIH/DRDD offense	None.
Recently proposed legislation	S.B. 5524, 67 th Leg., 2022 Reg. Sess (Wash. 2022) (pre-filed for introduction). This bill would modify the WASH. REV. CODE ANN. § 69.50.415 (West 2021) by creating a new class A felony offense when the substance that results in death contains fentanyl. Offenders would be subject to a sentence of no less than 20 years confinement.

<u>WEST VIRGINIA</u>	
Statute(s) and initial effective date(s)	W. VA. CODE ANN. §§ 16-47-1 to 47-6 (West 2021) (eff. June 12, 2015).
Substantive amendments to law(s)	None.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who, in good faith and in a timely manner, seeks emergency medical assistance for a person who reasonably appears to be experiencing an overdose. • Person for whom emergency medical assistance is sought. <p>The law defines the terms “overdose” and “emergency medical assistance.” An “overdose” is a condition resulting from the use of a controlled substance or alcohol.</p>
Protection as to controlled substance possession crimes	An eligible person may not be criminally responsible for knowingly or intentionally possessing a controlled substance or imitation controlled substance without a prescription (W. VA. CODE ANN. § 60A-4-401(C) (West 2021)).
Protection as to drug paraphernalia crimes	None.
Protection as to other crimes/violations	<ul style="list-style-type: none"> • An eligible person may not be held criminally responsible for: <ul style="list-style-type: none"> ○ Purchasing, consuming, or possessing alcohol if under the age of 21 (W. VA. CODE ANN. §§ 60-8-20A(a) and 60-3A-24(a) (West 2021)); ○ Purchasing alcohol from a licensee through misrepresentation of age (W. VA. CODE ANN. §§ 60-8-20A(b) and 60-3A-24(b) (West 2021)); or ○ Appearing in a public place in an intoxicated condition; drinking alcohol in a public place; or drinking alcoholic liquor in a motor vehicle on a highway, street, alley, or in a public garage (W. VA. CODE ANN. § 60-6-9(a) (West 2021)). • An eligible person is not subject to any sanctions for a violation of a condition of pretrial release, probation, furlough, or parole.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • The person seeking assistance must: <ul style="list-style-type: none"> ○ Remain with the person who reasonably appears to be in need of emergency medical assistance due to an overdose until such assistance is provided; ○ Identify himself or herself, if requested by emergency medical assistance personnel or law enforcement officers; and ○ Cooperate with and provide any relevant information requested by emergency medical assistance personnel or law enforcement officers needed to treat the person reasonably believed to be experiencing an overdose.

<u>WEST VIRGINIA</u>	
Requirement(s) for the protection to apply (continued)	<ul style="list-style-type: none"> The person for whom assistance is sought must, after receiving emergency medical assistance, participate in, comply with, and complete a substance use disorder treatment or recovery program approved by the court.
Exception(s) to protection	The limited immunity provided does not preclude claims asserted in a civil action even if immunity is provided in a criminal proceeding.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Sentencing phase of a criminal proceeding in a prosecution for which immunity is not granted, provided that the proceeding was instituted based on conduct or evidence obtained as the result of the defendant seeking emergency medical assistance.
Circumstance(s) when mitigation applies	When a person sought emergency medical assistance for a person who reasonably appears to be experiencing an overdose.
Other provisions of note	<ul style="list-style-type: none"> As an alternative to immunity for a person for whom emergency medical assistance was sought, a court may consider the following alternative sentencing and clemency options: (1) deferred prosecution; (2) pretrial diversion; (3) adjudication in drug court; or (4) any other appropriate form of alternative sentencing or rehabilitation permitted by this code, including, but not limited to: (a) probation; (b) conditional discharge; or (c) the weekend jail program, the work program, or the community service program. Person eligible for immunity who is charged with a non-exempted offense may nevertheless enter a guilty plea to an exempted offense if the person, after consultation with his or her attorney, so desires.
Express DIH or DDRD provision in state law	W. VA. CODE ANN. § 61-2-1 (West 2021) (eff. Mar. 13, 1991).
Classification of DIH/DRDD offense	First degree murder.
Circumstance(s) when DIH/DRDD applies	Death that occurs during the felony offense of manufacturing or delivering a controlled substance.
Affirmative defense of DIH/DRDD offense	None.
Recently proposed legislation	H.B. 2766, 85th Leg., Reg. Sess. (W. Va. 2021) (pending in House committee). This bill would create a new offense for the delivery of controlled substances “with reckless disregard for the health, safety, and welfare of others,” that results in death, in addition to the “knowing and willful” standard of current law.

<u>WISCONSIN</u>	
Statute(s) and initial effective date(s)	WIS. STAT. ANN. § 961.443 (West 2021) (eff. April 9, 2014).
Substantive amendments to law(s)	<ul style="list-style-type: none"> • March 6, 2016 – protection for the offense of possession of a masking agent added. • July 17, 2017 – amendment adds: <ul style="list-style-type: none"> ○ Certain protections for person receiving medical assistance; ○ Protection for having parole, probation, or extended supervision revoked; and ○ Requirement that person seeking assistance “make[] contact” with first responder, medical provider, or 911 operator when seeking assistance. • August 1, 2020 – sunset provision repeals many provisions added by the 2017 amendment, leaving only protections for persons seeking medical assistance for others (“aiders”) and only for controlled substance possession/drug paraphernalia crimes.
Individual(s) eligible for GS protection	“Aider,” who is defined as a person who brings another to a medical facility, contacts law enforcement or emergency medical services, or calls 911 because the person reasonably believes the other person is suffering from an overdose of, or other adverse reaction to, any controlled substance or controlled substance analog.
Protection as to controlled substance possession crimes	An eligible aider is immune from prosecution for the offense of possession of a controlled substance or a controlled substance analog (WIS. STAT. ANN. § 961.41(3g) (West 2021)).
Protection as to drug paraphernalia crimes	An eligible aider is immune from prosecution for the offense of possession of drug paraphernalia (WIS. STAT. ANN. § 961.573 (West 2021)).
Protection as to other crimes/violations	An eligible aider is immune from prosecution for the offense of possession of a masking agent (WIS. STAT. ANN. § 961.69(2) (West 2021)).
Requirement(s) for the protection to apply	An aider must contact first responder, medical provider, or 911 operator when seeking assistance and not merely summon or call for assistance.
Exception(s) to protection	None.
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A

<u>WISCONSIN</u>	
Other provisions of note	None.
Express DIH or DDRD provision in state law	WIS. STAT. ANN. § 940.02 (West 2021) (eff. July 26, 2002).
Classification of DIH/DDRDR offense	First-degree reckless homicide.
Circumstance(s) when DIH/DRDD applies	<ul style="list-style-type: none"> • When a person manufactures, distributes, or delivers a controlled substance included in Schedule I or II, a controlled substance analog of a controlled substance included in Schedule I or II, or ketamine or flunitrazepam, and another human being uses the controlled substance or controlled substance analog and dies as a result of that use. • When a person administers or assists in administering a controlled substance, a controlled substance analog of a controlled substance included in Schedule I or II, or ketamine or flunitrazepam, without lawful authority to do so, to another human being and that human being dies as a result of the use of the substance.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>WYOMING</u>	
Statute(s) and initial effective date(s)	No state law explicitly pertaining to Good Samaritan fatal overdose prevention.
Substantive amendments to law(s)	N/A
Individual(s) eligible for GS protection	N/A
Protection as to controlled substance possession crimes	N/A
Protection as to drug paraphernalia crimes	N/A
Protection as to other crimes/violations	N/A
Requirement(s) for the protection to apply	N/A
Exception(s) to protection	N/A
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	WYO. STAT. ANN. § 6-2-108 (West 2021) (eff. as amended July 1, 2010).
Classification of DIH/DDRDR offense	Felony.
Circumstance(s) when DIH/DRDD applies	When the person is an adult or at least four years older than the victim and he or she unlawfully delivers a controlled substance to a minor and that minor dies as a result of the injection, inhalation, ingestion, or administration by any other means of any amount of that controlled substance.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>AMERICAN SAMOA</u>	
Statute(s) and initial effective date(s)	No jurisdictional law explicitly pertaining to Good Samaritan fatal overdose prevention.
Substantive amendments to law(s)	N/A
Individual(s) eligible for GS protection	N/A
Protection as to controlled substance possession crimes	N/A
Protection as to drug paraphernalia crimes	N/A
Protection as to other crimes/violations	N/A
Requirement(s) for the protection to apply	N/A
Exception(s) to protection	N/A
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>GUAM</u>	
Statute(s) and initial effective date(s)	No jurisdictional law explicitly pertaining to Good Samaritan fatal overdose prevention.
Substantive amendments to law(s)	N/A
Individual(s) eligible for GS protection	N/A
Protection as to controlled substance possession crimes	N/A
Protection as to drug paraphernalia crimes	N/A
Protection as to other crimes/violations	N/A
Requirement(s) for the protection to apply	N/A
Exception(s) to protection	N/A
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	9 GUAM CODE ANN. §§ 16.30 and 16.40 (West 2021) (eff. as amended Oct. 16, 1998) (aggravated murder and murder).
Classification of DIH/DDRDR offense	Aggravated murder (victim is under the age of 18); murder (victim is over the age of 18).
Circumstance(s) when DIH/DRDD applies	Any person who knowingly or willingly transfers or sells any Schedule I controlled substance to a person and such controlled substance directly causes the death of such person.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

<u>NORTHERN MARIANA ISLANDS</u>	
Statute(s) and initial effective date(s)	No jurisdictional law explicitly pertaining to Good Samaritan fatal overdose prevention.
Substantive amendments to law(s)	N/A
Individual(s) eligible for GS protection	N/A
Protection as to controlled substance possession crimes	N/A
Protection as to drug paraphernalia crimes	N/A
Protection as to other crimes/violations	N/A
Requirement(s) for the protection to apply	N/A
Exception(s) to protection	N/A
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>PUERTO RICO</u>	
Statute(s) and initial effective date(s)	No jurisdictional law explicitly pertaining to Good Samaritan fatal overdose prevention.
Substantive amendments to law(s)	N/A
Individual(s) eligible for GS protection	N/A
Protection as to controlled substance possession crimes	N/A
Protection as to drug paraphernalia crimes	N/A
Protection as to other crimes/violations	N/A
Requirement(s) for the protection to apply	N/A
Exception(s) to protection	N/A
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	No.
Classification of DIH/DDRDR offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DDRDR offense	N/A
Recently proposed legislation	None.

<u>U.S. VIRGIN ISLANDS</u>	
Statute(s) and initial effective date(s)	No jurisdictional law explicitly pertaining to Good Samaritan fatal overdose prevention.
Substantive amendments to law(s)	N/A
Individual(s) eligible for GS protection	N/A
Protection as to controlled substance possession crimes	N/A
Protection as to drug paraphernalia crimes	N/A
Protection as to other crimes/violations	N/A
Requirement(s) for the protection to apply	N/A
Exception(s) to protection	N/A
Reporting overdose a mitigating factor in sentencing	No.
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A
Other provisions of note	None.
Express DIH or DDRD provision in state law	V.I. CODE ANN. tit. 19, § 612a (West 2021) (eff. as amended Nov. 9, 1990).
Classification of DIH/DDRDR offense	Felony.
Circumstance(s) when DIH/DRDD applies	Any person who manufactures, distributes, or dispenses methamphetamine, lysergic acid diethylamide, phencyclidine, or any other controlled dangerous substance in Schedules I or II, or any controlled substance analog thereof, shall be liable for a death which results from the injection, inhalation, or ingestion of that substance.
Affirmative defense of DIH/DDRDR offense	None.
Recently proposed legislation	None.

ABOUT THE LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION

Based in Washington D.C., and led by and comprised of experienced attorneys, the Legislative Analysis and Public Policy Association is a 501(c)(3) nonprofit organization whose mission is to conduct legal and legislative research and analysis and draft legislation on effective law and policy in the areas of public safety and health, substance use disorders, and the criminal justice system.

LAPPA produces timely model laws and policies that can be used by national, state, and local public health, public safety, and substance use disorder practitioners who want the latest comprehensive information on law and policy as well as up-to-the-minute comparative analyses, publications, educational brochures, and other tools ranging from podcasts to fact sheets. Examples of topics on which LAPPA has assisted stakeholders include naloxone laws, law enforcement/community engagement, alternatives to incarceration for those with substance use disorders, medication-assisted treatment in correctional settings, and the involuntary commitment and guardianship of individuals with alcohol or substance use disorders.



LEGISLATIVE ANALYSIS AND PUBLIC POLICY ASSOCIATION