

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

APRIL 2024



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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”). 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 people seeking medical assistance and, in most cases, to the overdose victim. New Mexico enacted the first Good Samaritan fatal overdose prevention law in 2007.

In 2020, the Legislative Analysis and Public Policy Association (LAPPA) 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. In the three years since, LAPPA updated the document multiple times. As of May 2024, 48 states and the District of Columbia have Good Samaritan fatal overdose prevention laws. Only Kansas and Wyoming do not have such laws. Additionally, none of the other U.S. territories 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
- Recently introduced, but not enacted, legislation (as of the July 2023 update, all recently introduced legislation is in one section at the end of the document).

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

¹ Caleb J. Banta-Green, et al., *Police Officers’ and Paramedics’ Experiences with Overdose and Their Knowledge and Opinions of Washington State’s Drug Overdose–Naloxone–Good Samaritan Law*, 90 J. OF URBAN HEALTH 1102, 1102 (Dec. 2013), <https://doi.org/10.1007/s11524-013-9814-y>.

² *Id.*

specific criminal charge, often manslaughter or murder, for individuals who furnish or deliver controlled substances to another individual who dies as a result.³ Reports suggest that DIH/DDRD prosecutions are on the rise in recent years, in response to the continuing drug overdose crisis in the country.⁴ 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
- Recently introduced, but not enacted, legislation (as of the July 2023 update, all recently introduced legislation is in one section at the end of the document).

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.⁵

- 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.
- Twenty-four 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 individuals. The first substantive amendments took place in 2014, and the latest in 2022. These 21 jurisdictions are (in alphabetical order): Arkansas, Colorado, Connecticut, the District of Columbia, Florida, Illinois, Louisiana, Maine, Maryland, Michigan, Mississippi, Montana, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Rhode Island, Tennessee, Utah, Vermont, Virginia, and Wisconsin.⁶

³ *Drug-induced homicide laws*, PRESCRIPTION DRUG ABUSE POL. SYS. (Jan. 1, 2019), <https://pdaps.org/datasets/drug-induced-homicide-1529945480-1549313265-1559075032>.

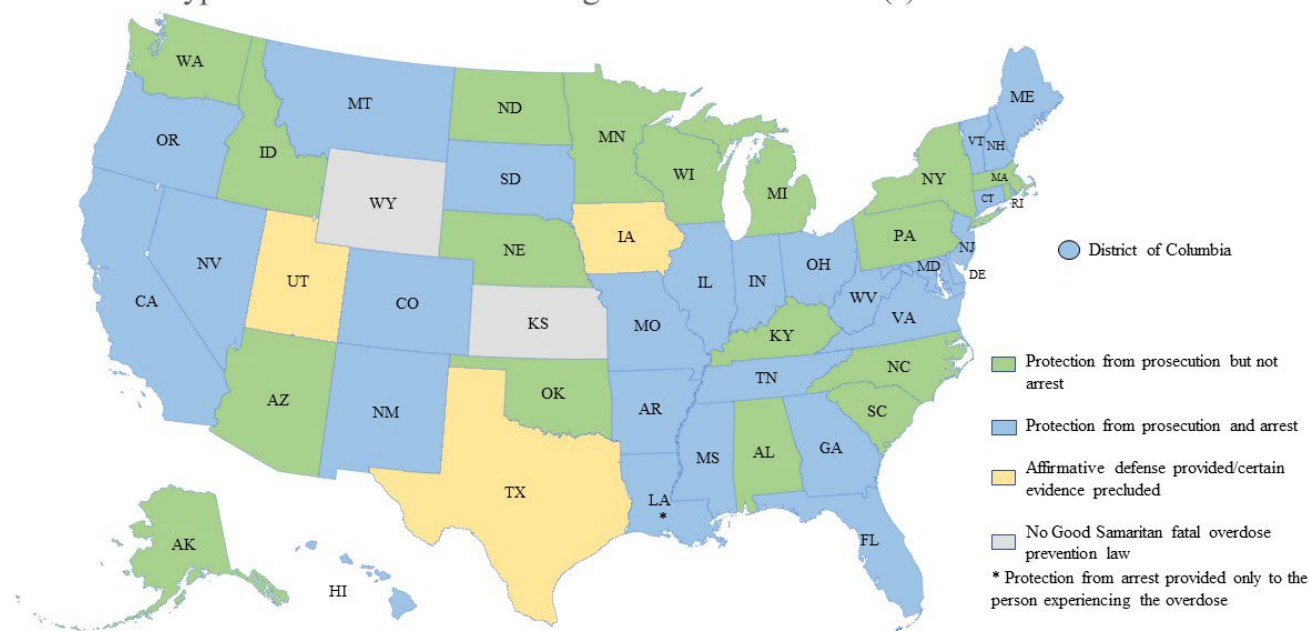
⁴ *Drug-induced homicide*, HEALTH IN JUSTICE ACTION LAB-NORTHEASTERN UNIV. SCH. OF L., last accessed August 2, 2023, <https://www.healthinjustice.org/drug-induced-homicide>.

⁵ 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.

⁶ 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.⁷ 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 (25 states and the District of Columbia) explicitly provide protection against arrest or being taken into custody. See the map below for a visual representation. Five states (Colorado, Florida, Illinois, Louisiana,⁸ and Virginia) added protection from arrest to their originally enacted laws by amendment.

Good Samaritan Fatal Overdose Prevention Laws:
Type of Protections from Drug Possession Offense(s)

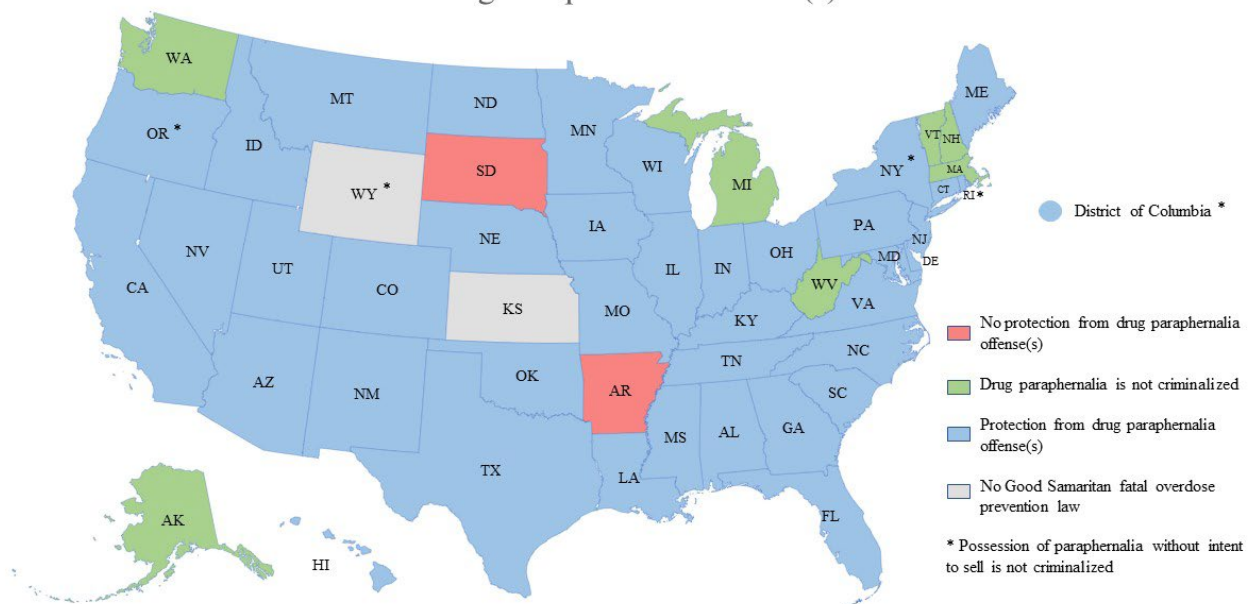


⁷ As originally enacted in 2015, Virginia's law provided an affirmative defense. Virginia law now provides protection from arrest or prosecution.

⁸ Louisiana law only protects the individual experiencing the overdose from arrest and not the person seeking help.

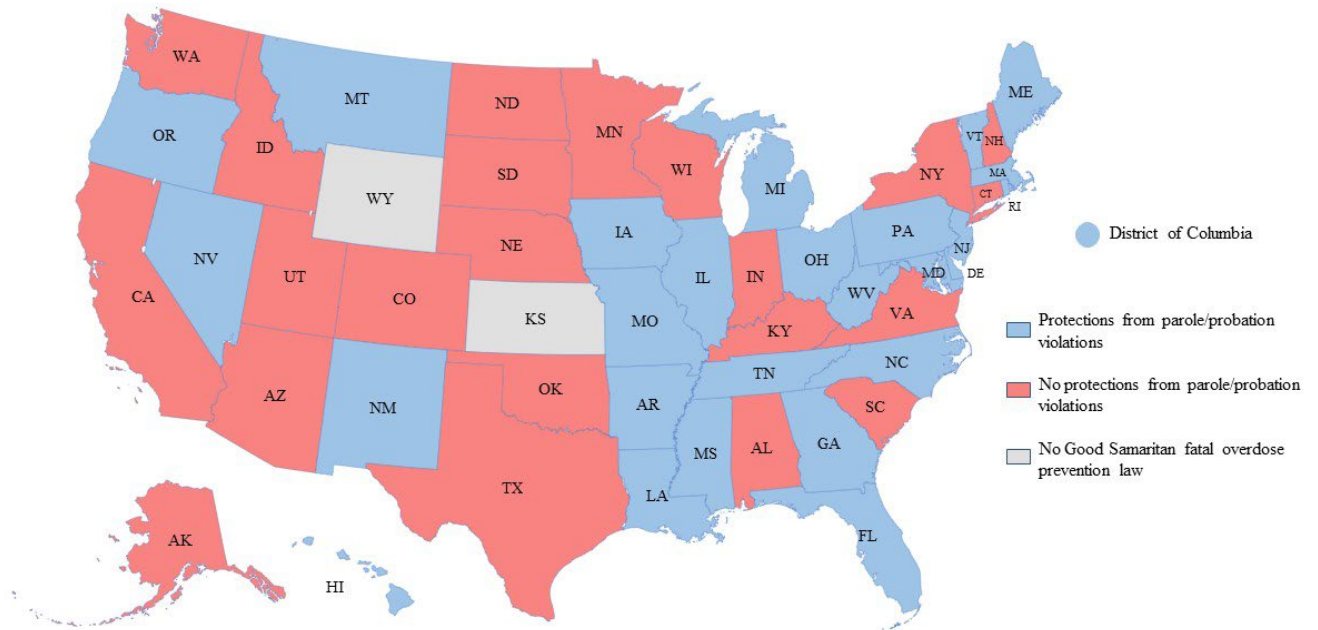
- In most cases, the nature of the protection provided to an eligible person under the jurisdiction’s Good Samaritan fatal overdose prevention law extends to possession of drug paraphernalia. In 39 states and the District of Columbia, the law expressly includes drug paraphernalia offenses within the protection. This includes three states (New York, Oregon, and Rhode Island) and the District of Columbia where the possession of drug paraphernalia, without the intent to deliver or sell, is not criminalized. In seven states (Alaska, Massachusetts, Michigan, New Hampshire, Vermont, West Virginia, and Washington), although the Good Samaritan fatal overdose prevention law does not extend protection to possession of drug paraphernalia, possession without the intent to sell is not criminalized. In contrast, there are two states that do criminalize possession of drug paraphernalia without the intent to sell that do not extend Good Samaritan protections to such possession (Arkansas and South Dakota). Four states (Florida, Illinois, Louisiana, and New Mexico) added protection against drug paraphernalia offenses to the originally enacted law by amendment. The map below provides a visual representation. For more information on state drug paraphernalia laws, see LAPP’s publication [Drug Checking Equipment, Needles/Syringes, and Drug Paraphernalia: Summary of State Laws](#).

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

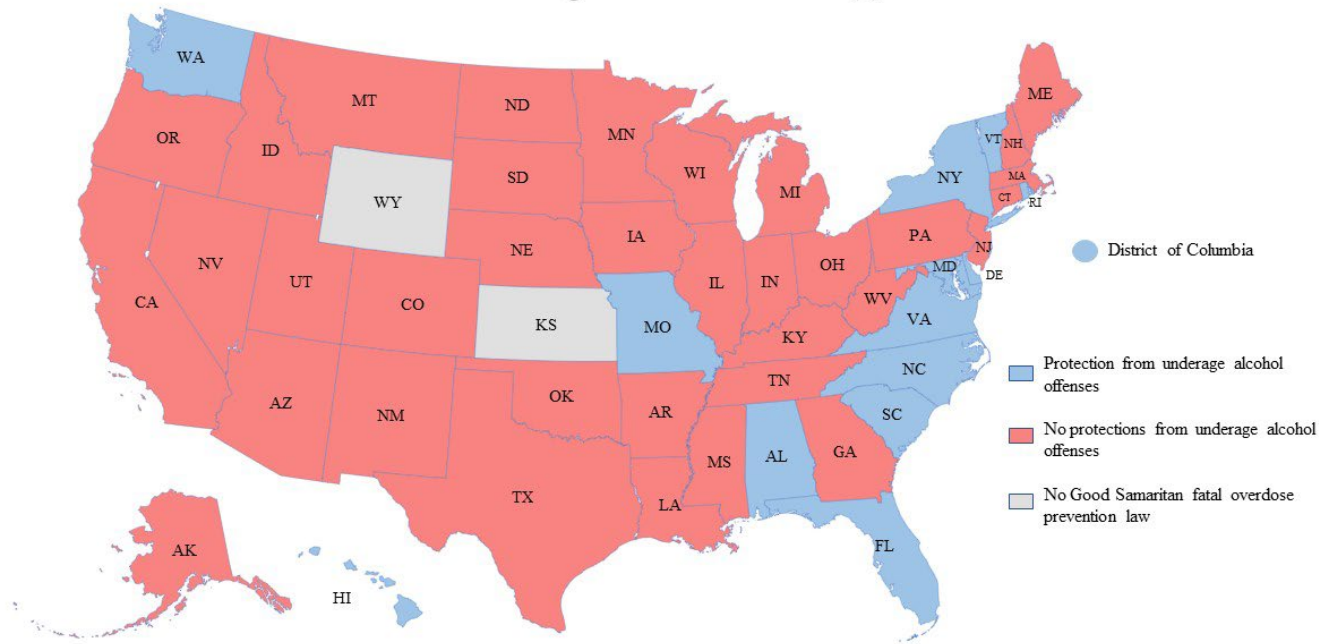


- Some Good Samaritan fatal overdose prevention laws provide broader protections for eligible individuals than just possession of drugs and drug paraphernalia. The most common of these additional protections are for probation and parole violations (27 states and the District of Columbia), certain underage alcohol offenses (13 states and the District of Columbia), and violations of protective orders (10 states). The maps below provide a visual representation.

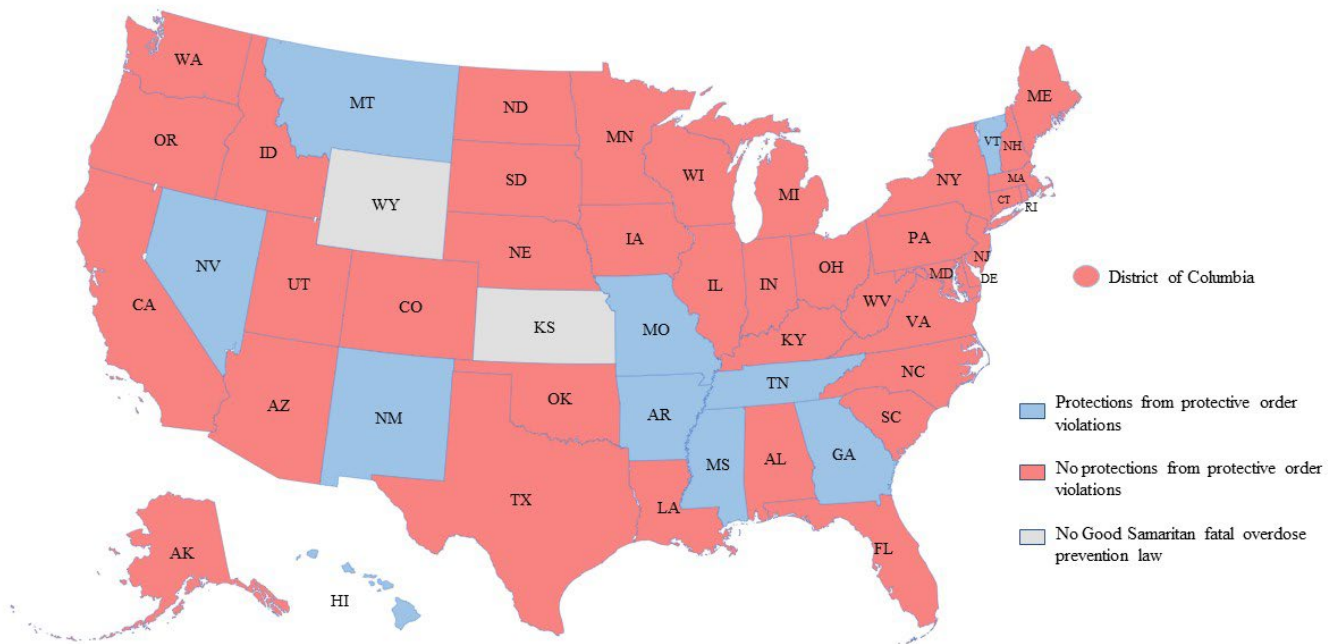
Good Samaritan Fatal Overdose Prevention Laws:
Protections from Parole/Probation Violations



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

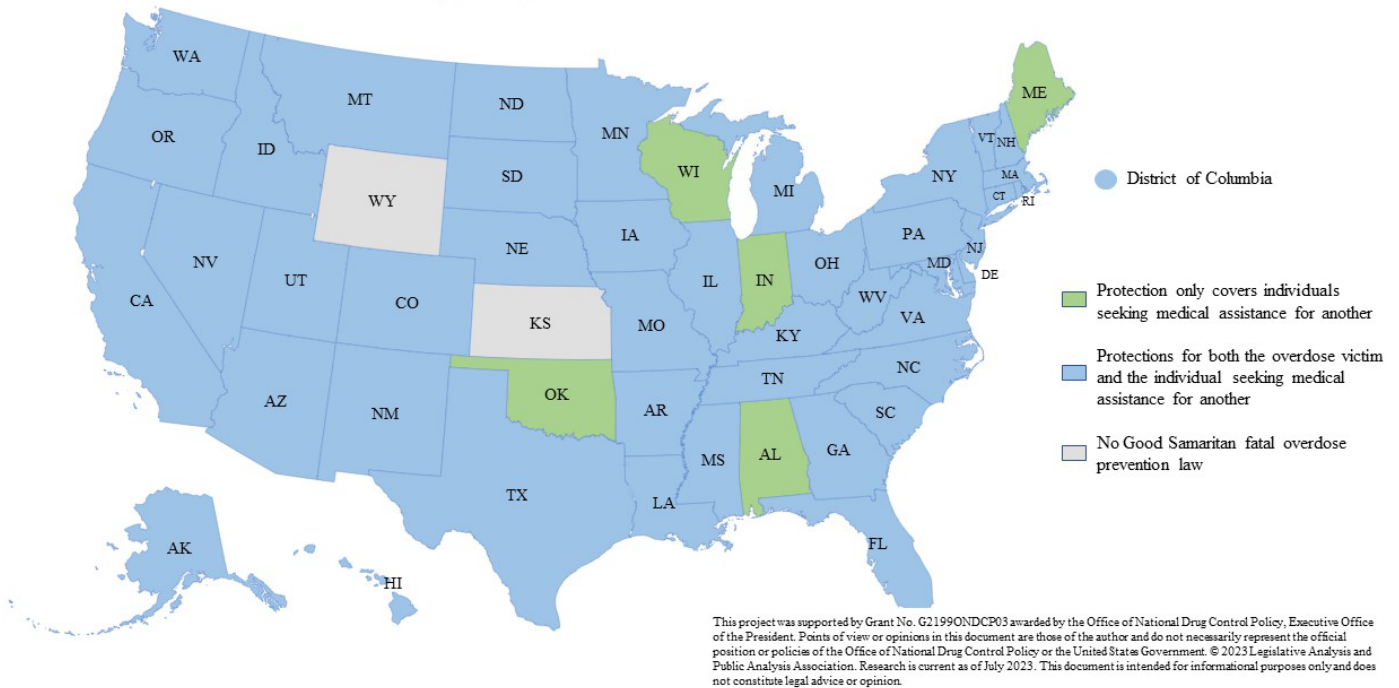


Good Samaritan Fatal Overdose Prevention Laws: Protections from Protective Order Violations



- In terms of those eligible to receive protection from Good Samaritan fatal overdose prevention laws, most laws cover both the person seeking medical assistance and the person experiencing the overdose for which medical assistance is sought. In five states (Alabama, Indiana, Maine, Oklahoma, and Wisconsin), the protection extends only to individuals seeking medical assistance for another and does not cover the overdose victim.⁹ The map below provides a visual representation. The laws of six states (Alabama, Iowa, Minnesota, North Carolina, South Carolina, and Texas) expressly require the person seeking assistance to be the first caller or have a reasonable belief of being the first caller. Indiana is the only jurisdiction that requires the person seeking assistance to administer naloxone to become eligible for protection.

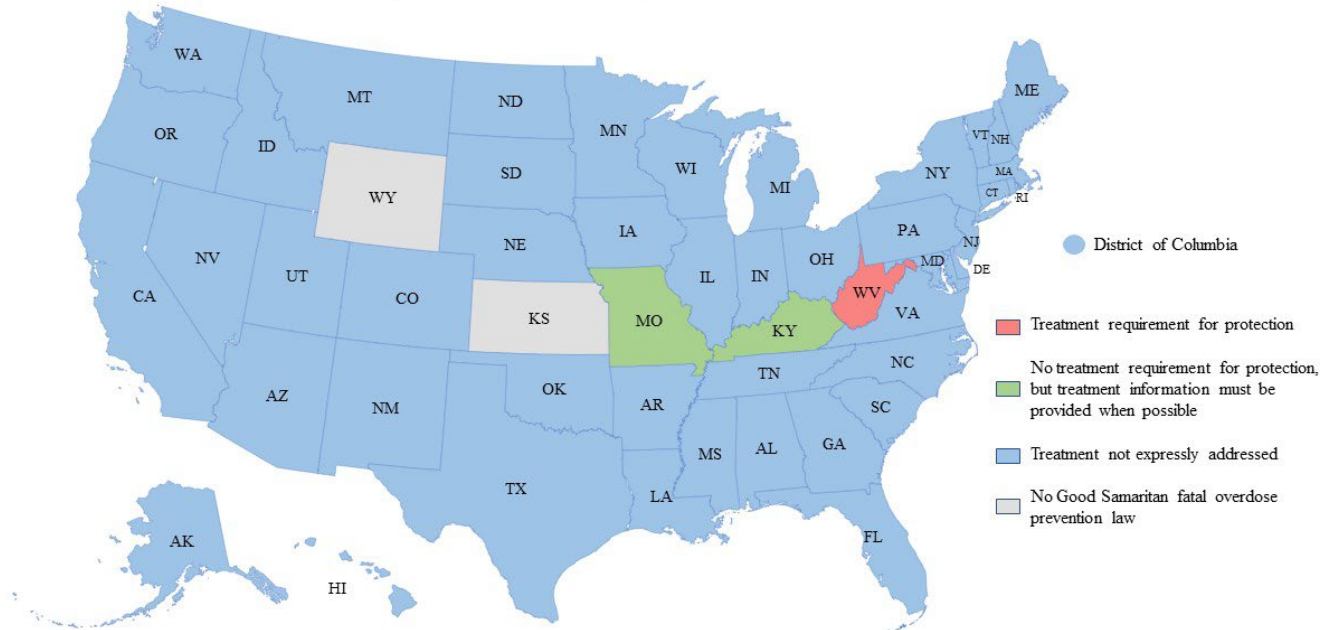
Good Samaritan Fatal Overdose Prevention Laws:
Individual(s) Eligible for Protection



⁹ Wisconsin’s law covered the person suffering the overdose from July 2017 until August 2020.

- In West Virginia, there are specific treatment requirements that the eligible individual must meet to receive protection from the Good Samaritan fatal overdose prevention law.¹⁰ In two 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. The map below provides a visual representation.

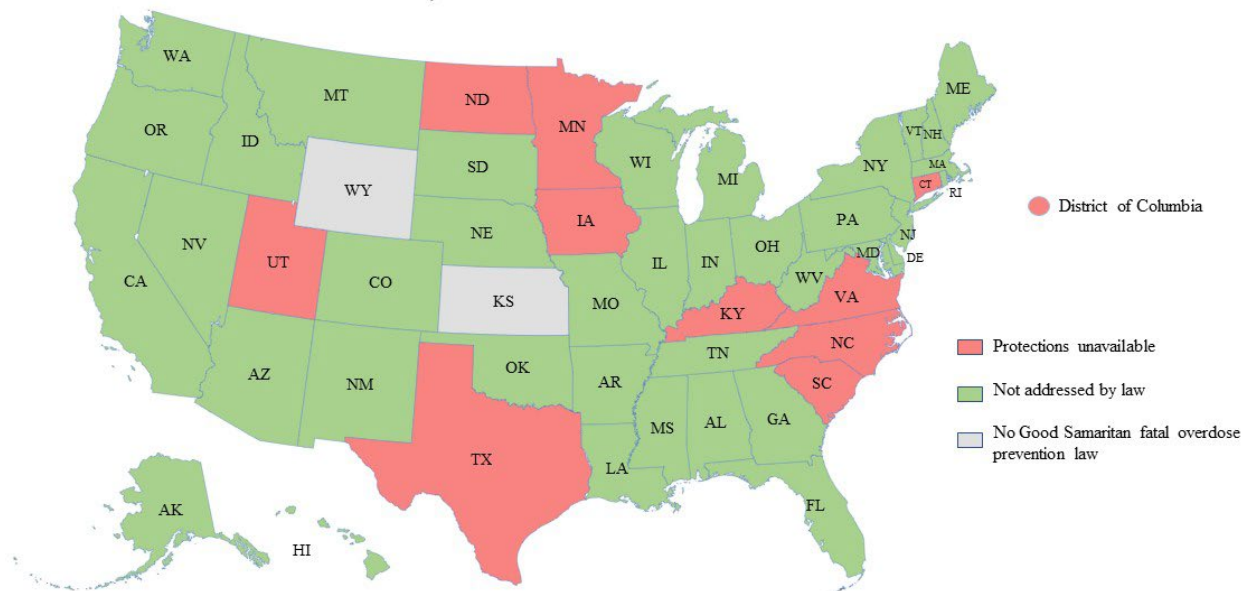
Good Samaritan Fatal Overdose Prevention Laws: Laws Expressly Addressing Treatment



¹⁰ Wisconsin and Ohio previously had a treatment requirement, but they were repealed on August 1, 2020 and April 4, 2023, respectively

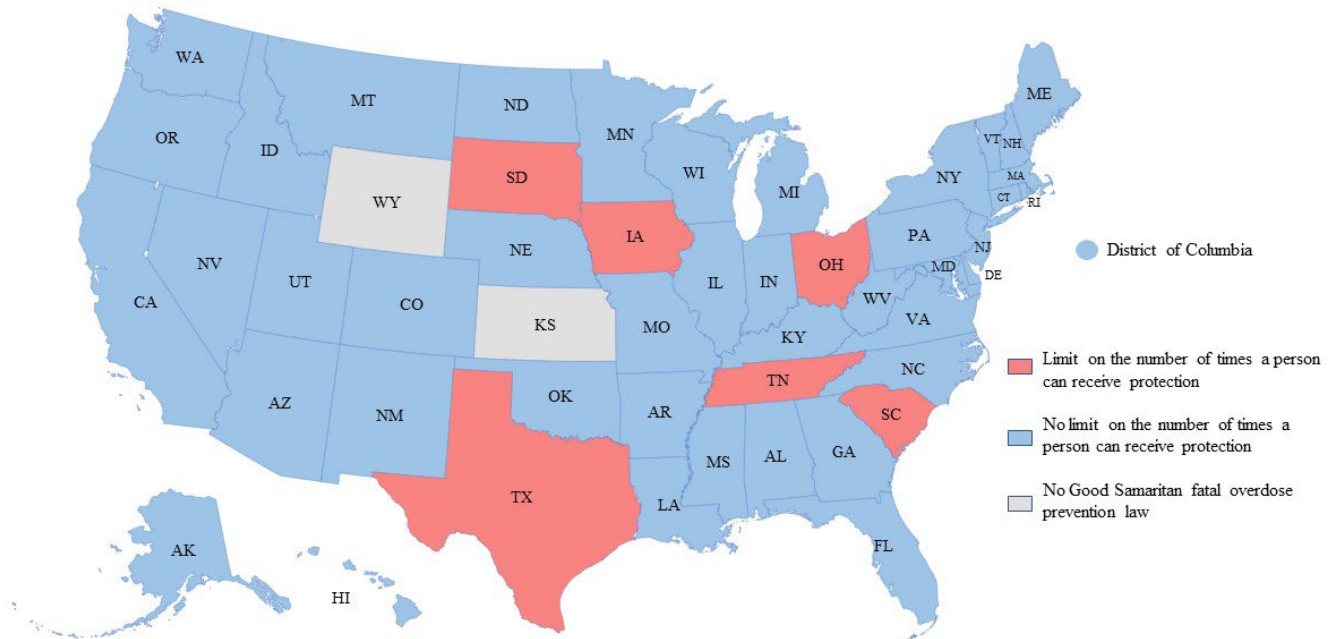
- To be eligible for protections, state Good Samaritan fatal overdose prevention laws set forth requirements that must be met in order for the protections to apply. These laws often require the individual to report the overdose in “good faith.” In 10 states and the District of Columbia, “good faith”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

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



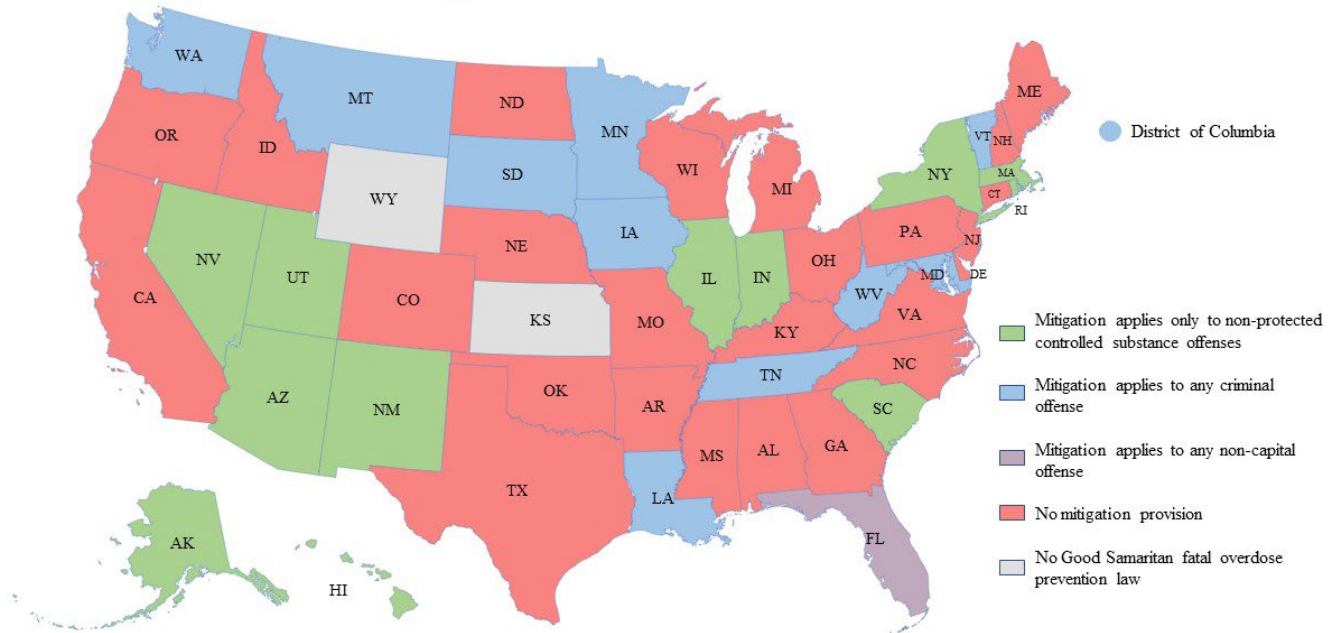
- Several state laws contain exceptions to protection. Six states (Iowa, Ohio, South Carolina, South Dakota, Tennessee, and Texas) place limits on the number of times a person can receive protection under the Good Samaritan fatal overdose prevention law. See the map below for a visual representation. 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.

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

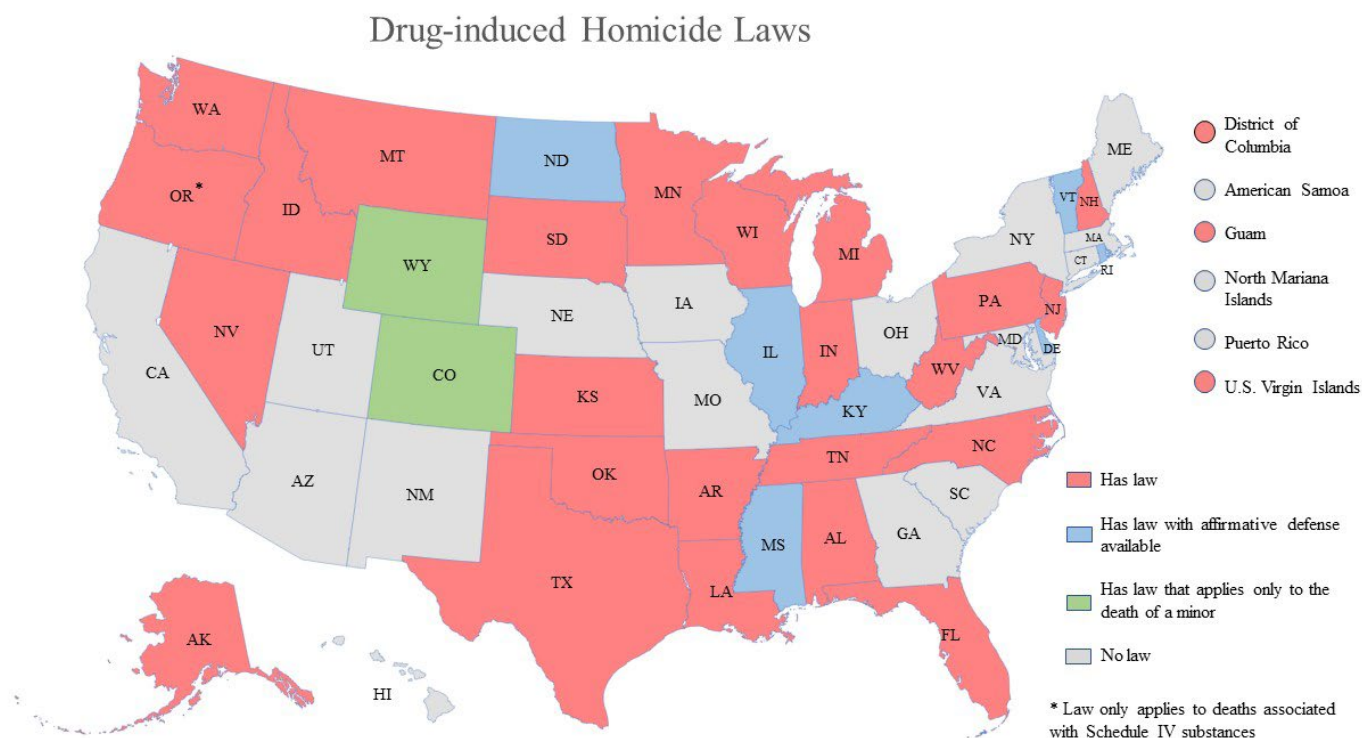


- In cases where individuals summon medical assistance for an overdose victim but allegedly commit a crime for which protection is not offered, 23 states and the District of Columbia specifically provide that summoning emergency assistance is a mitigating factor to be considered at sentencing. The criminal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

Good Samaritan Fatal Overdose Prevention Laws:
Mitigation Provisions



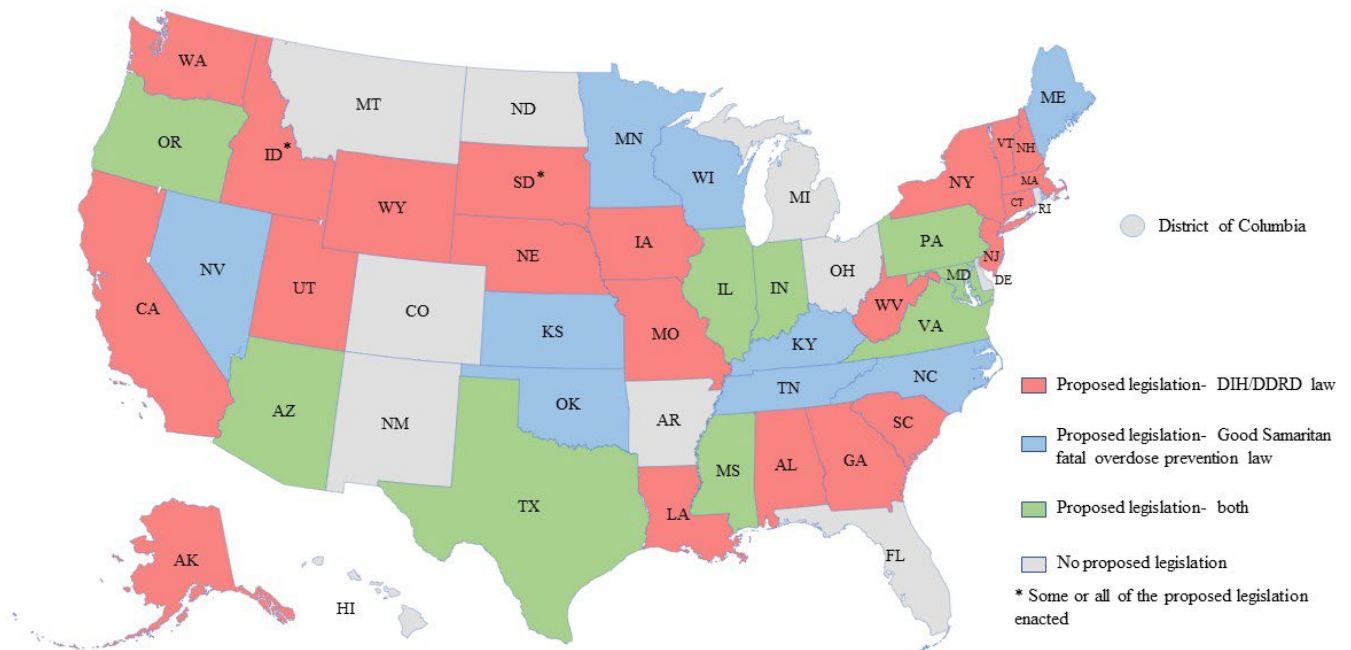
- Currently, 33 states, the District of Columbia, Guam, and the U.S. Virgin Islands have an express DIH/DDRD law that could be used to charge someone who delivers a drug that results in an accidental overdose death¹¹. The classification of the DIH/DDRD offense varies by state, with examples including manslaughter, classified felony, reckless homicide, and murder. In two states (Colorado and Wyoming), the DIH/DDRD law is limited to the death of a person under the age of 18. Oregon's law only applies to deaths associated with Schedule IV Controlled substances. The map below provides a visual representation.



¹¹ As part of our research into DIH/DDRD laws throughout the United States, LAPP reviewed three sources describing such laws, each published between 2017 and 2019. These three sources are: Leo Beletsky, *America's Favorite Antidote: Drug-induced Homicide in the Age of the Overdose Crisis*, 2019 UTAH L. REV. 833, 870 (Sept. 2019); DRUG POLICY ALLIANCE, AN OVERDOSE DEATH IS NOT MURDER: WHY DRUG-INDUCED HOMICIDE LAWS ARE COUNTERPRODUCTIVE AND INHUMANE 8 (Nov. 2017), https://drugpolicy.org/wp-content/uploads/2023/05/Overdose_Death_Is_Not_Murder_Report.pdf; and *Drug Induced Homicide Laws, PRESCRIPTION DRUG ABUSE POLICY SYSTEM* (Jan. 1, 2019), <https://pdaps.org/datasets/drug-induced-homicide-1529945480-1549313265-1559075032>. Experts do not agree on the classification of the laws in the District of Columbia and Oklahoma. Because at least one of the three sources classify these jurisdictions as having a DIH/DDRD law, LAPP similarly classifies both of them affirmatively.

- The laws of seven states (Delaware, Illinois, Kentucky, Mississippi, Rhode Island, North Dakota, 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/DDRDLaw. In the case of Vermont and Kentucky, the crimes eligible for protection under the Good Samaritan fatal overdose prevention law include the state’s DIH/DDRDLaw provision.
- During 2023 and 2024, 39 states introduced legislation related to Good Samaritan fatal overdose prevention laws, DIH/DDRDLaw, or both. Twenty-one states introduced legislation related to DIH/DDRDLaw. Nine states (Kansas, Kentucky, Maine, Minnesota, Nevada, North Carolina, Oklahoma, Tennessee, and Wisconsin) introduced legislation regarding Good Samaritan fatal overdose prevention laws. Nine states (Arizona, Illinois, Indiana, Maryland, Mississippi, Oregon, Pennsylvania, Texas, and Virginia) introduced legislation regarding both types of laws. See the map below for a visual representation. In two of these 39 jurisdictions, at least one piece of proposed legislation became law.

Proposed Legislation Regarding Good Samaritan Fatal Overdose Prevention and DIH/DDRDLaws



<u>ALABAMA</u>	
Statute(s)	<ul style="list-style-type: none"> • ALA. CODE § 20-2-281 (West 2024) (GSFOP law) • ALA. CODE § 13A-6-3 (West 2024) (DIH/DDRDR law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • June 5, 2015 – § 20-2-281 enacted • September 1, 2023 – § 13A-6-3 enacted
Individual(s) eligible for GS protection	An individual ¹² 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 ¹³ 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 2024)).
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 (West 2024)).
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

¹² 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.

¹³ 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	Yes
Classification of DIH/DRDD offense	Manslaughter (Class B felony)
Circumstance(s) when DIH/DRDD applies	When a person knowingly sells, furnishes, gives away, delivers, or distributes a controlled substance in violation of Ala. Code 13A-12-211 (West 2024), and the person to whom the controlled substance is sold, furnished, given, delivered, or distributed dies as a proximate result of the use of the controlled substance.
Affirmative defense of DIH/DRDD offense	None
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>ALASKA</u>	
Statute(s)	<ul style="list-style-type: none"> • ALASKA STAT. ANN. § 11.71.311 (West 2024) (Good Samaritan protections) • ALASKA STAT. ANN. § 12.55.155(d)(19) (West 2024) (mitigating factors in sentencing) • ALASKA STAT. ANN. § 11.41.120(a)(3) (West 2024) (DIH/DDRDR provision)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • June 3, 2006 – § 11.41.120(a)(3) enacted • September 8, 2008 - § 12.55.155(d)(19) enacted • October 8, 2014 – § 11.71.311 enacted
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) (West 2024)); • Certain misconduct involving a controlled substance in the fifth degree (ALASKA STAT. ANN. § 11.71.050(a)(4) or (5) (West 2024)); or • Certain misconduct involving a controlled substance in the sixth degree (ALASKA STAT. ANN. § 11.71.060(a)(1) or (2) (West 2024)).
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

<u>ALASKA</u>	
Reporting overdose a mitigating factor in sentencing	Yes
Offenses subject to mitigation	Offenses related to controlled substances
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	Yes
Classification of DIH/DRDD 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 2024) or ALASKA STAT. ANN. § 11.71.040(a)(1) (West 2024) and a person dies as a direct result of ingestion of the controlled substance.
Affirmative defense of DIH/DRDD offense	None
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>ARIZONA</u>	
Statute(s)	ARIZ. REV. STAT. ANN. § 13-3423 (West 2024)
Substantive amendments to law(s)	April 26, 2018 – § 13-3423 enacted
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.

<u>ARIZONA</u>	
Express DIH or DDRD provision in state law	No ¹⁴
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	Yes, see Pending State and Federal Legislation

¹⁴ Prior to the July 2023 update of this document, LAPPa listed ARIZ. REV. STAT. ANN. § 13-1105(A)(2) (West 2023) as Arizona’s DIH/DDRDR law. Upon review, LAPPa removed this law from the document finding it to be more directed at cartel/gang drug violence than express DIH/DRDD.

<u>ARKANSAS</u>	
Statute(s)	<ul style="list-style-type: none"> • ARK. CODE ANN. §§ 20-13-1701 to 20-13-1705 (West 2024) (GSFOP law) • ARK. CODE ANN. §§ 5-10-201 to 5-10-210 (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • July 22, 2015 – §§ 20-13-1701 to 20-13-1705 enacted • April 11, 2023 – §§ 5-10-201 to 5-10-210 enacted • January 1, 2024 – Amendment to § 20-13-1704 to add that an eligible person may not be subject to penalties for a violation of post-release supervision based on the possession of a controlled substance
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 2024)).
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, condition of parole, or post-release supervision.
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.

<u>ARKANSAS</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	Yes
Classification of DIH/DRDD offense	<ul style="list-style-type: none"> • Aggravated death by delivery • Death by delivery in the first degree • Death by delivery in the second degree
Circumstance(s) when DIH/DRDD applies	<ul style="list-style-type: none"> • Aggravated death by delivery- A person commits the offense of aggravated death by delivery if: <ul style="list-style-type: none"> ○ He or she knowingly delivers or conveys fentanyl to another person and the injection, ingestion, inhalation, or other introduction of the fentanyl, including any adulterants or diluents, is the cause of death of the other person; or ○ He or she knowingly delivers or conveys fentanyl, methamphetamine, heroin, or cocaine to a minor; and the injection, ingestion, inhalation, or other introduction of the fentanyl, methamphetamine, heroin, or cocaine, including any adulterants or diluents, causes the death of the minor. • Death by delivery in the first degree- A person commits the offense of death by delivery in the first degree if he or she knowingly delivers or conveys methamphetamine, heroin, or cocaine to another person and the injection, ingestion, inhalation, or other introduction of the methamphetamine, heroin, or cocaine, including any adulterants or diluents, is the cause of death of the person. This is a Class Y felony.

<u>ARKANSAS</u>	
Circumstance(s) when DIH/DRDD applies (continued)	<ul style="list-style-type: none"> • Death by delivery in the first degree is a Class A felony if the defendant proves by a preponderance of the evidence one or more of the following factors: <ul style="list-style-type: none"> ○ The defendant does not have a prior felony conviction; ○ The defendant played a minor or passive role in the delivery or conveyance of the methamphetamine, heroin, or cocaine; ○ The defendant was unaware of adulterants or diluents in the methamphetamine, heroin, or cocaine that accelerated or contributed to the death of the other person; or ○ The defendant possessed methamphetamine, heroin, or cocaine for personal use and the conveyance was not part of a transaction for which the defendant obtained income, resources, or benefits. • Death by delivery in the second degree- A person commits the offense of death by delivery in the second degree if he or she knowingly delivers or conveys to another person (1) a controlled substance that is not fentanyl, methamphetamine, heroin, or cocaine, or (2) a counterfeit substance; and the injection, ingestion, inhalation, or other introduction of the controlled substance or counterfeit substance, including any adulterants or diluents, is the cause of death of the person. This is a Class A felony. • Death by delivery in the second degree is a Class B felony if the defendant proves by a preponderance of the evidence one or more of the following factors: <ul style="list-style-type: none"> ○ The defendant does not have a prior felony conviction; ○ The defendant played a minor or passive role in the delivery or conveyance of the controlled substance or counterfeit substance; ○ The defendant was unaware of adulterants or diluents in the controlled substance or counterfeit substance that accelerated or contributed to the death of the other person; or ○ The defendant possessed the controlled substance or counterfeit substance for personal use and the conveyance was not part of a transaction for which the defendant obtained income, resources, or benefits.

<u>ARKANSAS</u>	
Circumstance(s) when DIH/DRDD applies (continued)	<ul style="list-style-type: none"> • Death by delivery in the second degree is a Class Y felony if the state proves beyond a reasonable doubt one or more of the following factors: <ul style="list-style-type: none"> ○ The defendant has a prior felony conviction for delivery of a controlled substance under the Uniform Controlled Substances Act, Ark. Code Ann. § 5-64-401 et. seq. (West 2024) or a similar law of another jurisdiction; ○ The defendant manifested extreme indifference to the value of human life during the commission of the offense; or ○ The defendant knew the victim was vulnerable because the victim was a minor, was 60 years of age or older, or was an incompetent person as defined in Ark. Code Ann. § 5-64-407 (West 2024).
Affirmative defense of DIH/DRDD offense	None
Recently proposed legislation	None

<u>CALIFORNIA</u>	
Statute(s)	CAL. HEALTH & SAFETY CODE § 11376.5 (West 2024)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • January 1, 2013 - § 11376.5 enacted • January 1, 2024- defined “seeks medical assistance”
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> <p>The law defines the phrase “seeks medical assistance” to include any communication made verbally, in writing, or in the form of data from a health-monitoring device, including, but not limited to, smart watches, for the purpose of obtaining medical assistance.</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 2024)), driving under the influence (CAL. VEHICLE CODE § 23152 (West 2024)), or driving under the influence and causing bodily injury (CAL. VEHICLE CODE § 23153 (West 2024)).

<u>CALIFORNIA</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	Yes, see Pending State and Federal Legislation

<u>COLORADO</u>	
Statute(s)	<ul style="list-style-type: none"> • COLO. REV. STAT. ANN. § 18-1-711 (West 2024) • COLO. REV. STAT. ANN. § 18-3-102(e) (West 2024)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • May 29, 2012 – § 18-1-711 enacted • 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 • August 2, 2019 – § 18-3-102(e) enacted • July 1, 2022 – Amendments added: (1) immunity for unlawful distribution, manufacturing, dispensing, or sale of certain materials; and (2) reporting requirements for law enforcement agencies responding to emergency drug or alcohol events and district attorneys • May 1, 2023 – Adds immunity for a person who aids or seeks aid for a person who suffered an emergency drug or alcohol overdose. Adds immunity for a violation of COLO. REV. STAT. ANN. § 18-18-405(2)(d)(II) (West 2024)
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) or (2.5) (West 2024)) • Unlawful use of a controlled substance (COLO. REV. STAT. ANN. § 18-18-404 (West 2024)) • Unlawful possession of two ounces or less of marijuana (COLO. REV. STAT. ANN. § 18-18-406(5)(a)(I) (West 2024)); 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 2024)); 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 2024))

<u>COLORADO</u>	
Protection as to controlled substance possession crimes (continued)	<ul style="list-style-type: none"> • 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 2024)) • Use or possession of synthetic cannabinoids or salvia divinorum (COLO. REV. STAT. ANN. § 18-18-406.1 (West 2024)); or Illegal possession or consumption of ethyl alcohol or marijuana by an underage person (COLO. REV. STAT. ANN. § 18-13-122 (West 2024))
Protection as to drug paraphernalia crimes	<p>An eligible person is immune from arrest and prosecution for the following offenses:</p> <ul style="list-style-type: none"> • Possession of drug paraphernalia (COLO. REV. STAT. ANN. § 18-18-428 (West 2024)); or • Illegal possession of marijuana paraphernalia by an underage person (COLO. REV. STAT. ANN. § 18-13-122 (West 2024)).
Protection as to other crimes/violations	<p>An eligible person is immune from arrest and prosecution from the offenses of:</p> <ul style="list-style-type: none"> • 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 2024)); and • Unlawful distribution, manufacturing, dispensing, or sale of a controlled substance, if the unlawful distribution, manufacturing, dispensing or sale of the material, compound, mixture, or preparation weighs not more than four grams and contains any amount of fentanyl, carfentanil, benzimidazole opiate, or analog thereof. (COLO. REV. STAT. ANN. § 18-18-405(2)(a)(III)(A) (West 2024)); • Unlawful distribution or transferring of a controlled substance for the purpose of consuming all of the controlled substance with another person or persons at the time substantially contemporaneous with the transfer. This only applies if the distribution or transfer involves not more than four grams of a schedule I or II controlled substance or no more than two grams of methamphetamine, heroin, ketamine, or cathinones. (COLO. REV. STAT. ANN. § 18-18-405(2)(d)(II) (West 2024)).

<u>COLORADO</u>	
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	<ul style="list-style-type: none"> • Starting on July 1, 2022, and for three years thereafter, a law enforcement agency that responds to an emergency drug or alcohol overdose event shall report to the district attorney’s office in the law enforcement agency’s jurisdiction whether an arrest was made as a result of the investigation of an emergency drug or alcohol overdose event or when an arrest was not made pursuant to the provisions of this section. • Starting on July 1, 2022, and for three years thereafter, each district attorney’s office that receives a report regarding an arrest from law enforcement shall prepare a report indicating each instance when a person is not prosecuted for an offense pursuant to COLO. REV. STAT. ANN. § 18-1-711 (West 2024) if the event involved fentanyl, carfentanil, benzimidazole opiate, or an analog thereof. If the district attorney prosecutes a person who sought emergency assistance for an emergency drug or alcohol overdose event if the event involved fentanyl, carfentanil, benzimidazole opiate, or an analog thereof, the district attorney shall prepare a report detailing the facts and circumstances for the decision of why the immunity provisions of § 18-1-711 did not apply.

<u>COLORADO</u>	
Other provisions of note (continued)	Each district attorney shall provide the reports collected to the legislative services agencies of the Colorado General Assembly for the purpose of a post-enactment review.
Express DIH or DDRD provision in state law	Yes
Classification of DIH/DDRDR offense	First degree murder
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 2024) or COLO. REV. STAT. ANN § 18-18-407(1)(g)(I) (West 2024) (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/DDRDR offense	None
Recently proposed legislation	None

<u>CONNECTICUT</u>	
Statute(s)	<ul style="list-style-type: none"> • CONN. GEN. STAT. ANN. § 21a-267 (West 2024) (protection as to drug paraphernalia) • CONN. GEN. STAT. ANN. § 21a-279 (West 2024) (protection as to drug possession)
Substantive amendments to law(s)	<p>October 1, 2011 – § 21a-267 and § 21a-279 enacted</p> <p>October 1, 2021 – Amendment to CONN. GEN. STAT. ANN. § 21a-279 (West 2024) reduced the protective area for violations occurring near a school or licensed childcare center to 200 feet</p>
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 2024)) 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 2024)) 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 2024)). • “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	Yes, see Pending State and Federal Legislation

<u>DELAWARE</u>	
Statute(s)	<ul style="list-style-type: none"> • DEL. CODE ANN. tit.16, § 4769 (West 2024) (GSFOP law) • DEL. CODE ANN. tit.16, § 4752B (West 2024) (DIH/DDRDL law)
Substantive amendments to law(s)	<p>August 31, 2013 – § 4769 enacted</p> <p>July 21, 2016 – § 4752B enacted</p>
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 2024)); • Possession of controlled substances or counterfeit controlled substances (DEL. CODE ANN. tit.16, § 4763 (West 2024)); • Possession of marijuana (DEL. CODE ANN. tit.16, § 4764 (West 2023)); and • Certain miscellaneous drug crimes (in DEL. CODE ANN. tit.16, § 4767 (West 2024)).
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 2024)).</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 2024)); and • Offenses relating to underage drinking (DEL. CODE ANN. tit.4, § 904(b), (c), (e), and (f) (West 2024)).

<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 2024).
Express DIH or DDRD provision in state law	Yes
Classification of DIH/DRDD 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/DRDD 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)	<ul style="list-style-type: none"> • D.C. CODE ANN. § 7-403 (West 2024) (GSFOP law) • D.C. CODE ANN. § 22-2101 (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • September 26, 1992 – § 22-2101 enacted • March 19, 2013 – § 7-403 enacted • 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 2024)) 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 2024)) is not considered a crime.

<u>DISTRICT OF COLUMBIA</u>	
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 2024)); • 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 2024)); ○ 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 2024)); 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 2024)).
Protection as to other crimes/violations (continued)	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.

<u>DISTRICT OF COLUMBIA</u>	
Express DIH or DDRD provision in state law	Yes ¹⁵
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	None

¹⁵ Experts do not agree on the classification of District of Columbia's law. Because at least one of the three sources LAPPa referred to (see FN 11) classify this jurisdiction as having a DIH/DDRDR law, LAPPa classifies it of affirmatively.

<u>FLORIDA</u>	
Statute(s)	<ul style="list-style-type: none"> • FLA. STAT. ANN. § 562.112 (West 2024) (protections as to alcohol-related crimes) • FLA. STAT. ANN. § 893.21 (West 2024) (protections as to drug crimes) • FLA. STAT. ANN. § 921.0026(n) (West 2024) (mitigating factors in sentencing) • FLA. STAT. ANN. § 782.04(1)(a)(3) (West 2024) (DIH/DDRDR law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • October 1, 2012 – § 893.21 and § 921.0026(n) enacted • October 1, 2017 – § 782.04(1)(a)(3) enacted • July 1, 2019 – § 562.112 enacted • July 1, 2019 – FLA. STAT. ANN. § 893.21 (West 2024) amended to add or expand protections for: (1) arrest in addition to charge and prosecution; (2) use and possession of drug paraphernalia, in addition to possession of a controlled substance; (3) pretrial, probation, and parole conditions; (4) underage possession of alcohol and selling alcohol to an underage person; and (5) alcohol-related overdose • October 1, 2022 – FLA. STAT. ANN. § 782.04(1)(a)(3) (West 2024) amended to add methamphetamine to the list of substances that trigger the DIH/DDRDR law if it is the proximate cause of death to the user • July 1, 2023- FLA. STAT. ANN. § 782.04(1)(a)(3) (West 2024) amended to change the causation requirement for DIH/DDRDR from proving that the substance was the proximate cause of the death of the user to the cause or substantial factor in producing the death of the user
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 2024)).
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 2024)).

<u>FLORIDA</u>	
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 2024)) or underage possession of alcohol (FLA. STAT. ANN. § 562.111 (West 2024)). • Eligible person may not be arrested, charged, prosecuted, or penalized for a violation FLA. STAT. ANN. § 893.132 (West 2024) (dangerous fentanyl exposure of first responder resulting in overdose or serious bodily injury).
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 2024)).
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 an overdose.
Other provisions of note	None
Express DIH or DDRD provision in state law	Yes
Classification of DIH/DDRDR offense	First degree murder and constitutes a capital felony
Circumstance(s) when DIH/DRDD applies	Death resulting from the unlawful distribution by a person age 18 or older of any of the following substances or mixtures, when such substance or mixture causes or was a substantial factor in 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; (9) methamphetamine; or (10) a controlled substance analog of any substance specified in this list.
Affirmative defense of DIH/DDRDR offense	None
Recently proposed legislation	None

<u>GEORGIA</u>	
Statute(s)	GA. CODE ANN. § 16-13-5 (West 2024)
Substantive amendments to law(s)	April 24, 2014 – § 16-13-5 enacted
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 2024)); and • Possession of less than one ounce of marijuana (GA. CODE ANN. § 16-13-30(j)(1) (West 2024)).
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 2024)).
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	The existence of the protection does not limit: <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	Yes, see Pending State and Federal Legislation

<u>HAWAII</u>	
Statute(s)	HAW. REV. STAT. ANN. § 329-43.6 (West 2024)
Substantive amendments to law(s)	July 7, 2015 – § 329-43.6 enacted
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 2024) (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.
Other provisions of note	None

<u>HAWAII</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>IDAHO</u>	
Statute(s)	<ul style="list-style-type: none"> • IDAHO CODE ANN. § 37-2739C (West 2024) (GSFOP law) • IDAHO CODE ANN. § 37-2734D (West 2024) (DIH/DDRDR law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • July 1, 2018 – § 37-2739C enacted • July 1, 2024 – § 37-2734D enacted
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 2024)) or for being under the influence of a controlled substance (IDAHO CODE ANN. § 37-2732c(a) (West 2024)).
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 2024)).
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 DDRDR provision in state law	Yes
Classification of DIH/DDRDR offense	Drug induced homicide (felony)

<u>IDAHO</u>	
Circumstance(s) when DIH/DRDD applies	A person is guilty of drug-induced homicide if he or she violated the provisions of IDAHO CODE ANN. § 37-2732(a) (West 2024) (manufacture or delivery of a controlled substance), IDAHO CODE ANN. § 37-2732B (West 2024) (drug trafficking), or IDAHO CODE ANN. § 37-2732D (West 2024) (trafficking in fentanyl), and has provided a controlled substance to a person and a person died as a result of the injection, inhalation, ingestion, or administration by any other means of any amount of such controlled substance..
Affirmative defense of DIH/DRDD offense	None
Recently proposed legislation	None, other than legislation enacted in 2024

<u>ILLINOIS</u>	
Statute(s)	<ul style="list-style-type: none"> • 720 ILL. COMP. STAT. ANN. 570/414 (West 2024) (Good Samaritan protections for controlled substances) • 720 ILL. COMP. STAT. ANN. 646/115 (West 2024) (Good Samaritan protections for methamphetamine) • 730 ILL. COMP. STAT. ANN. 5/5-5-3.1(14) (West 2024) (mitigating factor in sentencing) • 720 ILL. COMP. STAT. ANN. 5/9-3.3 (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • June 1, 2012 – §§ 570/414, 646/115, and 5/5-5-3.1(14) enacted • January 1, 2018 – § 5/9-3.3 enacted • April 27, 2021 – Amendments to 720 ILL. COMP. STAT. ANN. 570/414 and 646/115 (West 2024) added: (1) protection for an eligible person against arrest; (2) 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; (3) immunity for the possession of drug paraphernalia; (4) affirmative defense to DIH; and (5) immunity for certain aggravated battery offenses • January 1, 2022 – Amendment to 720 ILL. COMP. STAT. ANN. 570/414 (West 2024) prevents certain violations from serving as the sole basis of a violation of a person’s pretrial release or furlough
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 2024), “overdose” relates to a controlled substance-induced event. The protection afforded by 720 ILL. COMP. STAT. ANN. 646/115 (West 2024) must relate to a methamphetamine-induced event.</p>

<u>ILLINOIS</u>	
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 2024) (unauthorized possession), or 720 ILL. COMP. STAT. ANN. 646/60 (West 2024) (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;
Protection as to controlled substance possession crimes (continued)	<ul style="list-style-type: none"> • Less than 6 grams of a substance containing methaqualone, phencyclidine (PCP) or ketamine; • 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	<p>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 2024) (possession of drug paraphernalia).</p>

<u>ILLINOIS</u>	
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 2024) (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 2024) (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 2024) 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 2024)). • The violations listed in 720 ILL. COMP. STAT. ANN. 570/414 or 646/115 (West 2024) must not serve as the sole basis of a violation of parole, mandatory supervised release, probation, conditional discharge, a person’s pretrial release, furlough, 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.
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.

<u>ILLINOIS</u>	
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	Yes
Classification of DIH/DRDD offense	Drug-induced homicide, which is a Class X felony
Circumstance(s) when DIH/DRDD applies	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.
Circumstance(s) when DIH/DRDD applies (continued)	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/DRDD 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 2024).
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>INDIANA</u>	
Statute(s)	<ul style="list-style-type: none"> • IND. CODE ANN. § 16-42-27-2(d), (g), (h) (West 2024) (Good Samaritan protections) • IND. CODE ANN. § 35-38-1-7.1(b)(12) (West 2024) (mitigating factor for sentencing) • IND. CODE ANN. § 35-42-1-1.5 (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • March 26, 2014 – § 35-38-1-7.1(b)(12) enacted • March 21, 2016 – § 16-42-27-2(d), (g), (h) enacted • July 1, 2018 – § 35-42-1-1.5 enacted
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 2024)); • Possession of methamphetamine (IND. CODE ANN. § 35-48-4-6.1) (West 2024)); • Possession of a controlled substance (IND. CODE ANN. § 35-48-4-7) (West 2024)); • Possession of marijuana (IND. CODE ANN. § 35-48-4-11) (West 2024)); and • Possession of a synthetic drug, controlled substance analog, or substance represented to be a controlled substance (IND. CODE ANN. § 35-48-4 (West 2024)).
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 2024)).
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	Yes
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 2024) (dealing in cocaine or a narcotic drug); (2) IND. CODE ANN. § 35-48-4-1.1 (West 2024) (dealing in methamphetamine); (3) IND. CODE ANN. § 35-48-4-1.2 (West 2024) (manufacturing methamphetamine); or (4) IND. CODE ANN. § 35-48-4-2 (West 2024) (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 2024) (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 2024) (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/DRDD offense	None
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>IOWA</u>	
Statute(s)	IOWA CODE ANN. § 124.418 (West 2024)
Substantive amendments to law(s)	July 1, 2018 – § 124.418 enacted
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 2024). • 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 2024). <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 2024), if the delivery involved sharing the controlled substance without profit; and • Possession of a controlled substance under IOWA CODE ANN. § 124.401(5) (West 2024). <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 2024).
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 2024) (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	Yes, see Pending State and Federal Legislation

<u>KANSAS</u>	
Statute(s)	<ul style="list-style-type: none"> • No state law explicitly pertaining to Good Samaritan fatal overdose prevention • KAN. STAT. ANN. § 21-5430 (West 2024) (DIH/DDRDR law)
Substantive amendments to law(s)	July 1, 2013 – § 21-5430 enacted
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 DDRDR provision in state law	Yes
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 2024) and death results from the use of such controlled substance.
Affirmative defense of DIH/DDRDR offense	None
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>KENTUCKY</u>	
Statute(s)	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 218A.133 (West 2024) (GSFOP law) • KY. REV. STAT. ANN. § 507.030 (West 2024) (DIH/DDRD law) • KY. REV. STAT. ANN 507.040 (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • March 25, 2015 – § 218A.133 enacted • June 24, 2015 – § 507.030 enacted • June 27, 2019 – § 507.040 enacted • August 18, 2024 – Amendment to KY. REV. STAT. ANN. § 507.040 (West 2024) add death caused by the distribution of fentanyl. Adds Good Samaritan protections for distribution of fentanyl that results in death
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.

<u>KENTUCKY</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	<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 2024) 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	Yes
Classification of DIH/DRDD offense	First degree manslaughter (class B felony) or second degree manslaughter (class C felony) depending on whether there was an exchange remuneration and whether or not fentanyl is involved
Circumstance(s) when DIH/DRDD applies	<ul style="list-style-type: none"> • 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. (second degree manslaughter) • A person knowingly sells fentanyl or a fentanyl derivative to another person, and the injection, ingestion, inhalation, or other introduction of the fentanyl or fentanyl derivative causes the death of the person. (first degree manslaughter) • A person knowingly distributes fentanyl or a fentanyl derivative to another person without remuneration, and the injection, ingestion, inhalation, or other introduction of the fentanyl or fentanyl derivative causes death. (second degree manslaughter).
Affirmative defense of DIH/DRDD offense	An eligible person under KY. REV. STAT. ANN. § 218A.133 (West 2024) will not be charged with or prosecuted for a violation of KY. REV. STAT. ANN. § 507.030 (1)(d) (West 2024) (sale of fentanyl or a fentanyl derivative that results in death) or KY. REV. STAT. ANN. §§ 507.040(1)(d) (West 2024) (knowing distribution of fentanyl or fentanyl derivative to another person without remuneration that results in death).
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>LOUISIANA</u>	
Statute(s)	<ul style="list-style-type: none"> • LA. STAT. ANN. § 14:403.10 (West 2024) (GSFOP law) • LA. STAT. ANN. § 14:30.1(A)(3), (4) (West 2024) (DIH/DDRDLaw)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • June 26, 2009 – § 14:30.1(A)(3), (4) • August 1, 2014 – § 14:403.10 enacted • August 1, 2022 – Amendments add the following: <ul style="list-style-type: none"> ○ Immunity for use of a controlled substance; ○ Immunity for possession of drug paraphernalia; ○ Protections from violations of pretrial release, probation, parole, and civil forfeiture; ○ Protection from arrest for an individual who experiences an overdose and is in need of medical assistance; ○ Protections for a person who illegally provided or administered a controlled substance, by eliminating the exception that previously existed; ○ Seeking medical assistance as a mitigating factor in a criminal prosecution; and ○ Additional exceptions to protection.
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	As of August 1, 2022, an eligible person may not be charged, prosecuted, or penalized for use or possession of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law. In the case of a person who experiences a drug-related overdose and needs medical assistance, that person may not be arrested either.
Protection as to drug paraphernalia crimes	As of August 1, 2022, an eligible person may not be charged, prosecuted, or penalized for possession of drug paraphernalia. In the case of a person who experiences a drug-related overdose and needs medical assistance, that person may not be arrested either.
Protection as to other crimes/violations	As of August 1, 2022, an eligible person is not subject to sanctions for a violation of a condition of pretrial release, condition of probation, condition of parole, or civil forfeiture of property, related to the incident which required medical assistance.
Requirement(s) for the protection to apply	Evidence for such offenses must have been obtained because of the person's seeking medical assistance.

<u>LOUISIANA</u>	
Exception(s) to protection	<ul style="list-style-type: none"> • The existence of the protection from prosecution is not grounds for suppression of evidence in other criminal prosecutions. • Law does not limit any seizure of evidence or contraband otherwise permitted. • Law does not limit or abridge the 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 as those covered by the immunity provisions. • Law does not limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regard to a defendant who does not qualify for the immunity protections or with regard to other crimes committed by a person who otherwise qualifies for the immunity protections.
Reporting overdose a mitigating factor in sentencing	Yes
Offenses subject to mitigation	For offenses in which immunity is not provided
Circumstance(s) when mitigation applies	When an individual provides or seeks first aid or other medical assistance for someone who is experiencing a drug overdose
Other provisions of note	None
Express DIH or DDRD provision in state law	Yes
Classification of DIH/DRDD offense	Second degree murder
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/DRDD offense	None
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>MAINE</u>	
Statute(s)	ME. REV. STAT. ANN. tit. 17-A § 1111-B (West 2024)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • September 19, 2019 – § 1111-B enacted • August 8, 2022 – Wholesale changes to the law, amounting to a repeal and replace • October 25, 2023 – Adds other opioid overdose-reversing medications approved by the federal Food and Drug Administration to the definition of “rendering aid”
Individual(s) eligible for GS protection	<p>“Protected person” means:</p> <ul style="list-style-type: none"> • A person who in good faith calls for assistance for another person experiencing a suspected drug-related overdose; and • Any person rendering aid at the location of the suspected drug-related overdose. <p>“Rendering aid” means performing any action that involves looking after a person experiencing a suspected drug-related overdose while the person awaits the arrival of a medical professional or law enforcement officer to provide assistance. Rendering aid includes, but is not limited to, giving first aid and administering or assisting naloxone administration or another opioid overdose-reversing medication approved by the federal Food and Drug Administration.</p>
Protection as to controlled substance possession crimes	<p>Maine law does not explicitly set forth the crimes for which protection is available. Instead, a protected person is immune from arrest or prosecution for all but “excluded crimes.”</p> <p>Excluded crimes consist of: (1) an offense against the person as described in Chapter 9 of Title 17 of the Maine Criminal Code; (2) sexual assault; (3) sexual exploitation of a minor; (4) kidnapping, criminal restraint, and criminal forced labor; (5) robbery; (6) arson; (7) aggravated sex trafficking; (8) sex trafficking; (9) aggravated attempted murder; (10) abandonment of a child; (11) endangering the welfare of a child; (12) unlawful transfer of a firearm other than a handgun to a minor; (13) unlawful transfer of a handgun to a minor; (14); endangering the welfare of a dependent person; (15) incest; (16) patronizing prostitution of a minor or a person with a mental disability; (17) violation of a protection from harassment order, a protective order in crimes between family members, or a protection from abuse order; (18) unlisted crime committed against a person under age 18 at the time that the crime was committed; (19) criminal conspiracy to commit a crime listed in (1) to (18); (20) criminal attempt to commit a crime listed in (1) to (18); and (21) criminal solicitation to commit a crime listed in (1) to (18).</p>

<u>MAINE</u>	
Protection as to drug paraphernalia crimes	Maine law does not explicitly set forth the crimes for which protection is available. Instead, a protected person is immune from arrest or prosecution for all but excluded crimes.
Protection as to other crimes/violations	Except when a charge or conviction arises out of an excluded crime, a protected person is immune from: (1) revocation proceedings with regard to conditions of release, probation, administrative release, or supervised community confinement; and (2) termination proceedings for deferred disposition violations or termination from community confinement monitoring.
Requirement(s) for the protection to apply	<ul style="list-style-type: none"> • Grounds for the arrest or prosecution must have been obtained due to a medical professional's or law enforcement officer's responding to a request for medical assistance. • The identity of the protected person is learned or the protected person is identified as a person subject to arrest or prosecution as a result of a medical professional's or law enforcement officer's responding to a request for medical 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
Other provisions of note	Prior to trial, a criminal defendant may ask the court to determine if they are immune from prosecution or revocation or termination proceedings. Once the defendant files a motion and presents evidence to establish immunity, the burden of proof by clear and convincing evidence shifts to the prosecution. The court may hear testimony and must make factual and legal findings.
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	Yes, see Pending State and Federal Legislation

<u>MARYLAND</u>	
Statute(s)	MD. CODE ANN., CRIM. PROC. § 1-210 (West 2024)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • October 1, 2009 – § 1-210 enacted • 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 • October 1, 2023- Adds immunity for a person who is experiencing a medical emergency from being sanctioned for a violation of a condition of a pretrial release, probation, or parole
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 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 2024)).
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 2024)) or controlled paraphernalia (MD. CODE ANN., CRIM. LAW § 5-620 (West 2024)).
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 2024)); ○ Obtaining an alcoholic beverage for a person that is under the age of 21 (MD. CODE ANN., CRIM. LAW § 10-116 (West 2024)); or ○ Furnishing for or allowing underage alcohol consumption (MD. CODE ANN., CRIM. LAW § 10-117 (West 2024)). • 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

<u>MARYLAND</u>	
Offenses subject to mitigation	Mitigating factor in any criminal prosecution
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
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>MASSACHUSETTS</u>	
Statute(s)	MASS. GEN. LAWS ANN. ch. 94C § 34A (West 2024)
Substantive amendments to law(s)	August 2, 2012 – § 34A enacted
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 2024)).
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	Yes, see Pending State and Federal Legislation

<u>MICHIGAN</u>	
Statute(s)	<ul style="list-style-type: none"> • MICH. COMP. LAWS ANN. § 333.7403 (West 2024) (protections for possession of a controlled substance) • MICH. COMP. LAWS ANN. § 333.7404 (West 2024) (protections for use of a controlled substance) • MICH. COMP. LAWS ANN. 750.317a (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • January 1, 2006 – § 750.317a enacted • March 15, 2016 – § 333.7403 and § 333.7404 enacted • January 4, 2017 – amendment expanded the protection provisions to individuals of any age; both provisions originally only applied to individuals under the age of 21
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.

<u>MICHIGAN</u>	
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
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	Yes
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 2024) 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)	<ul style="list-style-type: none"> • MINN. STAT. ANN. § 604A.05 (West 2024) (GSFOP law) • MINN. STAT. ANN. § 609.195 (West 2024) (DIH/DDRDL law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • August 1, 1987 – § 609.195 enacted • July 1, 2014 – § 604A.05 enacted
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 2024) (certain controlled substance crimes in the third degree); • MINN. STAT. ANN. § 152.024 (West 2024) (controlled substance crime in fourth degree); and • MINN. STAT. ANN. § 152.025 (West 2024) (controlled substance crime in fifth degree).
Protection as to drug paraphernalia crimes	<p>An eligible person may not be charged or prosecuted for the possession of drug paraphernalia.</p>
Protection as to other crimes/violations	<p>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.</p>
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>

<u>MINNESOTA</u>	
Reporting overdose a mitigating factor in sentencing	Yes
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	The existence of the protection does not: <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	Yes
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	Yes, see Pending State and Federal Legislation

<u>MISSISSIPPI</u>	
Statute(s)	<ul style="list-style-type: none"> • MISS. CODE ANN. § 41-29-149.1 (West 2024) (GSFOP law) • MISS. CODE ANN. § 41-29-139.1 (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • July 1, 2015 – § 41-29-149.1 enacted • July 1, 2016 – Protections for the possession of 10 grams or less of synthetic cannabinoids added • July 1, 2022 – § 41-29-139.1 enacted
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 2024)); and • Possession of 30 grams or less of marijuana or 10 grams or less of synthetic cannabinoids (MISS. CODE ANN. § 41-29-139 (West 2024)).
Protection as to drug paraphernalia crimes	<p>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 2024)).</p>
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 2024) or MISS. CODE ANN. § 41-29-176 (West 2024) for a drug violation, except that prima facie contraband shall be subject to forfeiture.

<u>MISSISSIPPI</u>	
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.
Exception(s) to protection	The existence of the protection 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 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	Yes ¹⁶
Classification of DIH/DRDD offense	Fentanyl delivery resulting in death
Circumstance(s) when DIH/DRDD applies	A person who knowingly delivers or causes the delivery of fentanyl commits the crime of "fentanyl delivery resulting in death" when, as a result of the unlawful delivery of fentanyl in exchange for anything of value to another person, death to a person results from the proximate cause of injection, oral ingestion, or inhalation of the fentanyl.
Affirmative defense of DIH/DRDD offense	Yes. Any 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 fentanyl overdose shall not be charged or prosecuted for a violation of this section, if the evidence for the charge was gained as a result of the seeking of medical assistance.
Recently proposed legislation	Yes, see Pending State and Federal Legislation

¹⁶ A sunset provision automatically repeals the law on July 1, 2025, absent further action from the legislature.

<u>MISSOURI</u>	
Statute(s)	MO. ANN. STAT. § 195.205 (West 2024)
Substantive amendments to law(s)	August 28, 2017 – § 195.205 enacted
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 2024)).
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 2024)).
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 2024)); ○ Selling alcohol to a minor (MO. ANN. STAT. § 311.310 (West 2024)); ○ Purchase or possession of alcohol by a minor (MO. ANN. STAT. § 311.320 (West 2024)); or ○ Misrepresentation of age by a minor to obtain liquor (MO. ANN. STAT. § 311.320 (West 2024)). • 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	The existence of the protection does not: <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 2024); • 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/DRDD offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DRDD offense	N/A
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>MONTANA</u>	
Statute(s)	MONT. CODE ANN. § 50-32-609 (West 2024) (GSFOP law) MONT. CODE ANN. § 45-9-101(5) (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • May 3, 2017 – § 50-32-609 enacted • July 1, 2019 – Specific protections for pregnant women seeking services for a substance use disorder added • October 1, 2021 – § 45-9-101(5) enacted
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 2024)); or • Criminal possession of precursors to dangerous drugs (MONT. CODE ANN. § 45-9-107 (West 2024)).
Protection as to drug paraphernalia crimes	<p>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 2024)).</p>
Protection as to other crimes/violations	<ul style="list-style-type: none"> • Provisions of MONT. CODE ANN. § 45-5-626 (West 2024) (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.

<u>MONTANA</u>	
Reporting overdose a mitigating factor in sentencing	Yes
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 2024)); (2) criminal possession of precursors to dangerous drugs (MONT. CODE ANN. § 45-9-107 (West 2024)); and (3) criminal possession of drug paraphernalia (MONT. CODE ANN. § 45-10-103 (West 2024)). • 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	Yes
Classification of DIH/DRDD offense	Aggravating factor in sentencing
Circumstance(s) when DIH/DRDD applies	A person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in MONT. CODE ANN. §50-32-101 (West 2024). The person shall be imprisoned in the state prison for a term not to exceed 25 years and may be fined not more than \$50,000. However, if the offense results in the death of an individual from the use of any dangerous drug that was distributed, the person shall be imprisoned in the state prison for a term of no more than 100 years and may be fined no more than \$100,000.
Affirmative defense of DIH/DRDD offense	None
Recently proposed legislation	None

<u>NEBRASKA</u>	
Statute(s)	NEB. REV. STAT. § 28-472 (West 2024)
Substantive amendments to law(s)	August 24, 2017 – § 28-472 enacted
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 2024)).
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 2024)).
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 2024)) and the possession of a controlled substance (NEB. REV. ST. § 28-416 (West 2024)) for which protections are not provided; or • Any other criminal offense.
Reporting overdose a mitigating factor in sentencing	No
Offenses subject to mitigation	N/A

<u>NEBRASKA</u>	
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	Yes, see Pending State and Federal Legislation

<u>NEVADA</u>	
Statute(s)	<ul style="list-style-type: none"> • NEV. REV. STAT. ANN. § 453C.150 (West 2024) (GSFOP law) • NEV. REV. STAT. ANN. § 200.010 (West 2024) (DIH/DDRDR law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • June 8, 2005 – § 200.010 enacted • October 1, 2015 – § 453C.150 enacted
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	<p>An eligible person may not be arrested, charged, prosecuted, or convicted for the offense of:</p> <ul style="list-style-type: none"> • Possession of a controlled substance unless it is for the purpose of sale or trafficking (NEV. REV. STAT. ANN. § 453.336 (West 2024)); or • Use of a controlled substance (NEV. REV. STAT. ANN. § 453.336 (West 2024)).
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 2024)).
Protection as to other crimes/violations	<p>An eligible person may not:</p> <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 2024) (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 (continued)	<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	Yes
Classification of DIH/DRDD 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/DRDD offense	None
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>NEW HAMPSHIRE</u>	
Statute(s)	<ul style="list-style-type: none"> • N.H. REV. STAT. § 318-B:28-b (West 2024) (GSFOP law) • N.H. REV. STAT. § 318-B:26(IX) (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • September 6, 2015 – § 318-B:28-b enacted • September 16, 2017 – § 318-B:26(IX) enacted • 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 2024)).
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

<u>NEW HAMPSHIRE</u>	
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.
Express DIH or DDRD provision in state law	Yes
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 2024), 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	Yes, see Pending State and Federal Legislation

<u>NEW JERSEY</u>	
Statute(s)	<ul style="list-style-type: none"> • N.J. STAT. ANN. § 2C:35-30 (West 2024) (protection for other persons experiencing a drug overdose) • N.J. STAT. ANN. § 2C:35-31 (West 2024) (protection for person experiencing a drug overdose themselves) • N.J. STAT. ANN. § 2C:35-9 (West 2024) (DIH/DDRDL law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • July 9, 1987 – § 2C:35-9 enacted • May 2, 2013 – § 2C:35-30 and § 2C:35-31 enacted
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 2024)); • Inhaling the fumes of or possessing any toxic chemical (N.J. STAT. ANN. § 2C:35-10.4(b) (West 2024)); 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 2024)).
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 2024)); 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 2024)).
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 2024)); or ○ Unlawfully possessing a controlled dangerous substance that was lawfully prescribed or dispensed (N.J. STAT. ANN. § 2C:35-24 (West 2024)). • 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	The existence of the protection 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 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	Yes
Classification of DIH/DRDD 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/DRDD offense	None
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>NEW MEXICO</u>	
Statute(s)	N.M. STAT. ANN. § 30-31-27.1 (West 2024)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • June 15, 2007 – § 30-31-27.1 enacted • July 1, 2019 – amendment added the following provisions: <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 2024)).
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 2024)).
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)	<ul style="list-style-type: none"> • N.Y. PENAL LAW § 220.78 (McKinney 2024) (Good Samaritan protections) • N.Y. CRIM. PROC. LAW § 390.40 (McKinney 2024) (mitigating factor in sentencing)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • September 18, 2011 – § 220.78 and § 390.40 enacted • 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 2024)).
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 2024)). • 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 because 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	The existence of the protection does not: <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 about 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 to the seizure and forfeiture of controlled substances (N.Y. PUB. HEALTH LAW § 3387 (McKinney 2024)).
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/DRDD offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DRDD offense	N/A
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>NORTH CAROLINA</u>	
Statute(s)	<ul style="list-style-type: none"> • N.C. GEN. STAT. ANN. § 18B-302.2 (West 2024) (protections for alcohol offenses) • N.C. GEN. STAT. ANN. § 90-96.2 (West 2024) (protections for drug offenses) • N.C. GEN. STAT. ANN. § 14-18.4 (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • April 9, 2013 – § 18B-302.2 and § 90-96.2 enacted • August 1, 2015 – Amendments made to both statutes to add: <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. • December 1, 2019 – § 14-18.4 enacted • December 1, 2023 <ul style="list-style-type: none"> ○ Expanded the immunity from prosecution to cover a felony violation for possession of less than one gram of any controlled substance. Prior to the amendment, the immunity only covered felony violations for possession involving one gram of cocaine or one gram of heroin. Removed DIH from the penalty of second degree murder and updated § 14-18.4.
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 2024)); • Felony violation of possession of less than one gram of any controlled substance (N.C. GEN. STAT. ANN. § 90-95(a)(3) (West 2024)).
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 2024)).</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 2024)).

<u>NORTH CAROLINA</u>	
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 execution of an arrest warrant, search warrant, or other lawful search.
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	Yes

<u>NORTH CAROLINA</u>	
Classification of DIH/DRDD offense	<ul style="list-style-type: none"> • Death by Distribution Through Unlawful Delivery of Certain Controlled Substances (Class C felony) • Death by Distribution Through Unlawful Delivery with Malice of Certain Controlled Substances Class B2 felony) • Death by Distribution Through Unlawful Sale of Certain Controlled Substances (Class B2 felony) • Aggravated Death by Distribution Through Unlawful Sale of Certain Controlled Substances (Class B1 felony)
Circumstance(s) when DIH/DRDD applies	<ul style="list-style-type: none"> • A person is guilty of death by distribution through unlawful delivery of certain controlled substances if: (1) the person unlawfully delivers at least one certain controlled substance; (2) the ingestion of the certain controlled substance or substances causes the death of the user; and (3) the commission of the offense was the proximate cause of the victim's death. • A person is guilty of aggravated death by distribution of certain controlled substances if: (1) the person unlawfully sells at least one certain controlled substance; (2) the ingestion of the certain controlled substance or substances causes the death of the user; (3) the commission of the offense was the proximate cause of the victim's death; (4) the person did not act with malice; and (5) the person has a previous conviction under this section; N.C. GEN. STAT. ANN. § 90-95 (West 2024) (manufacturing, selling, or delivering, or possessing with intent to manufacture, sell or deliver, a controlled substance); N.C. GEN. STAT. ANN. § 90-95.1 (West 2024) (continuing criminal enterprise); N.C. GEN. STAT. ANN. § 90-95.4 (West 2024) (employing or intentionally using a minor to commit a drug law violation); N.C. GEN. STAT. ANN. § 90-95.6 (West 2024) (promoting drug sales by a minor); or trafficking in violation of N.C. GEN. STAT. ANN. § 90-95(h) (West 2024), or a prior conviction in any federal or state court in the United States that is substantially similar to an offense listed, within seven years of the date of the offense. • A person is guilty of death by distribution through unlawful delivery with malice of certain controlled substances if: (1) the person unlawfully delivers at least one certain controlled substance; (2) the person acted with malice; (3) the ingestion of the certain controlled substance or substances caused the death of the user; and (4) the commission of the offense was the proximate cause of the victim's death.

<u>NORTH CAROLINA</u>	
Circumstance(s) when DIH/DRDD applies (continued)	<ul style="list-style-type: none"> • A person is guilty of death by distribution through unlawful sale of certain controlled substances if: (1) the person unlawfully sells at least one certain controlled substance; (2) the ingestion of the certain controlled substance or substances causes the death of the user; and (3) the commission of the offense was the proximate cause of the victim’s death. • A person is guilty of aggravated death by distribution through unlawful sale of certain controlled substances if: (1) the person unlawfully sells at least one certain controlled substance; (2) the ingestion of the certain controlled substance or substances causes the death of the user; (3) the commission of the offense was the proximate cause of the victim’s death; and (4) the person has a previous conviction under N.C. GEN. STAT. ANN. § 90-95 (West 2024) (manufacturing, selling, or delivering, or possessing with intent to manufacture, sell or deliver, a controlled substance); N.C. GEN. STAT. ANN. § 90-95.1 (West 2024) (continuing criminal enterprise); N.C. GEN. STAT. ANN. § 90-95.4 (West 2024) (employing or intentionally using a minor to commit a drug law violation); N.C. GEN. STAT. ANN. § 90-95.6 (West 2024) (promoting drug sales by a minor); or trafficking in violation of N.C. GEN. STAT. ANN. § 90-95(h), or a prior conviction in any federal or state court in the United States that is substantially similar to an offense listed, within 10 years of the date of the offense. <p>“Certain controlled substances” includes any opium, opiate, or opioid; any synthetic or natural salt, compound, derivative, or preparation of opium, opiate, or opioid; cocaine or any other substance described in N.C. GEN. STAT. ANN. § 90-90(1)(d) (West 2024); methamphetamine; a depressant described in N.C. Gen. Stat. Ann. § 90-92(a)(1); or a mixture of one or more of these substances.</p>
Affirmative defense of DIH/DRDD offense	None
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>NORTH DAKOTA</u>	
Statute(s)	<ul style="list-style-type: none"> • N.D. CENT. CODE ANN. § 19-03.1-23.4 (West 2024) (GSFOP law) • N.D. CENT. CODE ANN. § 19-03.1-23.1(1)(e) (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • August 1, 2015 – § 19-03.1-23.4 enacted • 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. • August 1, 2021 – § 19-03.1-23.1(1)(e) enacted
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 2024)); and • Use or possession of an imitation controlled substance (N.D. CENT. CODE ANN. § 19-03.2-03(3) (West 2024)).
Protection as to drug paraphernalia crimes	<p>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 2024)).</p>
Protection as to other crimes/violations	<p>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 2024)).</p>
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	<p>Good faith does not include seeking medical assistance during the execution of an arrest warrant or search warrant or during a lawful search.</p>

<u>NORTH DAKOTA</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	Yes
Classification of DIH/DRDD 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/DRDD offense	The DIH/DRDD law does not apply to an individual who is immune from prosecution under § 19-03.1-23.4.
Recently proposed legislation	None

<u>OHIO</u>	
Statute(s)	OHIO REV. CODE ANN. § 2925.11(B)(2) (West 2024)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • September 13, 2016 – § 2925.11(B)(2) enacted • April 4, 2023 – Removed the requirement that a qualified individual must not be on community control or post-release control. Added immunity protections for possession or use of drug paraphernalia. Removed the requirement that if a person is found in violation of a community control sanction or post-release control sanction, 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. Added protections for violations of a community control sanction or post-release sanction.
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	A qualified individual will not be arrested, charged, prosecuted, or convicted for the possession of drug abuse instruments (OHIO REV. CODE ANN. § 2925.12 (West 2024); the use or possession of drug paraphernalia (OHIO REV. CODE ANN. § 2925.14(C)(1) (West 2023)); or the use or possession of cannabis drug paraphernalia (OHIO REV. CODE ANN. § 2925.141 (West 2024)).
Protection as to other crimes/violations	If a person who is serving a community control sanction or is under a sanction on post-release control is a qualified individual, then OHIO REV. CODE ANN. § 2929.141(b) (West 2024); OHIO REV. CODE ANN. § 2929.15 (B)(2) (West 2024); OHIO REV. CODE ANN. § 2929.25(D)(3) (West 2024); or OHIO REV. CODE ANN. § 2967.28(F)(3) (West 2024) applies to the person with respect to any violation of the sanction or post-release control sanction based on the eligible crimes.

<u>OHIO</u>	
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, drug abuse instruments, or drug paraphernalia 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. • 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	No
Offenses subject to mitigation	N/A
Circumstance(s) when mitigation applies	N/A

<u>OHIO</u>	
Other provisions of note	The existence of the protection does not: <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.
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>OKLAHOMA</u>	
Statute(s)	OKLA. STAT. ANN. tit. 63, § 2-413.1 (West 2024) (GSFOP law) OKLA. STAT. ANN. tit. 21, § 701.7 (West 2024) (DIH/DDRDR law)
Substantive amendments to law(s)	November 1, 2012 – § 701.7 enacted November 1, 2018 – § 2-413.1 enacted
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 2024)) or Schedule II (OKLA. STAT. ANN. tit. 63, § 2-206 (West 2024)) controlled dangerous substance, provided the amount of such controlled dangerous substance does not constitute trafficking (OKLA. STAT. ANN. tit. 63, § 2-415(C) (West 2024)).
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.

<u>OKLAHOMA</u>	
Express DIH or DDRD provision in state law	Yes ¹⁷
Classification of DIH/DDRDR 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/DDRDR offense	None
Recently proposed legislation	Yes, see Pending State and Federal Legislation

¹⁷ Experts do not agree on the classification of Oklahoma's law. Because at least one of the three sources LAPPa referred to (see FN 11) classify this jurisdiction as having a DIH/DDRDR law, LAPPa classifies it of affirmatively.

<u>OREGON</u>	
Statute(s)	<ul style="list-style-type: none"> • OR. REV. STAT. ANN. § 475.898 (West 2024) (eff. Jan. 1, 2016) • OR. REV. STAT. ANN. § 475.752(6) (West 2024)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • 2009 – § 475.752(6) enacted • January 1, 2016 – § 475.898 enacted
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 2024)); • Unlawful possession of hydrocodone (OR. REV. STAT. ANN. § 475.814 (West 2024)); • Unlawful possession of methadone (OR. REV. STAT. ANN. § 475.824 (West 2024)); • Unlawful possession of oxycodone (OR. REV. STAT. ANN. § 475.834 (West 2024)); • Unlawful possession of heroin (OR. REV. STAT. ANN. § 475.854 (West 2024)); • Unlawful possession of 3,4-methylenedioxymethamphetamine (OR. REV. STAT. ANN. § 475.874 (West 2024)); • Unlawful possession of cocaine (OR. REV. STAT. ANN. § 475.884 (West 2024)); • Unlawful possession of methamphetamine (OR. REV. STAT. ANN. § 475.894 (West 2024)); and • Unlawfully possessing a prescription drug (OR. REV. STAT. ANN. § 689.527 (West 2024)).
Protection as to drug paraphernalia crimes	<p>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 2024)).</p>
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 2024)).

<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 covered by the available immunity.
Requirement(s) for the protection to apply	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 warrants 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	Yes ¹⁸
Classification of DIH/DRDD offense	Class C felony
Circumstance(s) when DIH/DRDD applies	A person unlawfully manufactures or delivers a Schedule IV controlled substance that causes the death of another person.
Affirmative defense of DIH/DRDD offense	None
Recently proposed legislation	Yes, see Pending State and Federal Legislation

¹⁸ It is unclear why Oregon would only institute a specific penalty for deaths associated with Schedule IV controlled substances. One explanation is that it provides a mechanism to increase the penalty of certain Schedule IV violations from a misdemeanor to a felony.

<u>PENNSYLVANIA</u>	
Statute(s)	<ul style="list-style-type: none"> • 35 PA. STAT. AND CONS. STAT. § 780-113.7 (West 2024) (GSFOP law) • 18 PA. STAT. AND CONS. STAT. § 2506 (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • August 18, 2014 – § 2506 enacted • December 1, 2014 – § 780-113.7 enacted
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 2024)); 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 2024)).
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 2024)); 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 2024)).

<u>PENNSYLVANIA</u>	
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 2024)); • 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 2024)); or
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 2024)).
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.

<u>PENNSYLVANIA</u>	
Exception(s) to protection	The existence of protection does not: <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.
Express DIH or DDRD provision in state law	Yes
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	Yes, see Pending State and Federal Legislation

<u>RHODE ISLAND</u>	
Statute(s)	<ul style="list-style-type: none"> • R.I. GEN. LAWS. § 21-28.9-4 (West 2024) (GSFOP law) • R.I. GEN. LAWS, §§ 11-23-6 to 23-7 (West 2024) (DIH/DDRDLaw)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • January 27, 2016 – § 21-28.9-4 enacted • June 29, 2018 – §§ 11-23-6 to 23-7 enacted • 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 underaged 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.

<u>RHODE ISLAND</u>	
Other provisions of note	None
Express DIH or DDRD provision in state law	Yes
Classification of DIH/DDRDR 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/DDRDR 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)	S.C. CODE ANN. §§ 44-53-1910 to 53-1970 (West 2024)
Substantive amendments to law(s)	June 10, 2017 – §§ 44-53-1910 to 53-1970 enacted
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 2024)); or • Possessing less than one gram of methamphetamine or cocaine base (S.C. CODE ANN. § 44-53-375(A) (West 2024)).
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 2024)); 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 2024)).
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 2024)); • 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 2024)); • 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 2024)); • Transferring or giving beer or wine to a person under the age of 21 for consumption (S.C. CODE ANN. § 61-4-90 (West 2024)); or • Contributing to the delinquency of a minor (S.C. CODE ANN. § 16-17-490 (West 2024)).

<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	Yes, see Pending State and Federal Legislation

<u>SOUTH DAKOTA</u>	
Statute(s)	<ul style="list-style-type: none"> • S.D. CODIFIED LAWS §§ 34-20A-109 to 20A-113 (West 2024) (GSFOP law) • S.D. CODIFIED LAWS § 22-42-2 (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • March 13, 2017 – §§ 34-20A-109 to 20A-113 enacted • July 1, 2018 – § 22-42-2 enacted • July 1, 2024 – amendment to S.D. CODIFIED LAWS § 22-42-2 (West 2024) adjusted the penalties for DIH
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 due to 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

<u>SOUTH DAKOTA</u>	
Express DIH or DDRD provision in state law	Yes
Classification of DIH/DDRDR offense	<ul style="list-style-type: none"> • Prior to July 1, 2024, the principal felony is increased by two levels, up to a Class C Felony. • After July 1, 2024, the felony level varies depending on the situation.
Circumstance(s) when DIH/DRDD applies	<ul style="list-style-type: none"> • Prior to July 1, 2024, any person who, for consideration, intentionally distributes any controlled or counterfeit substance and another person dies as a direct result of using that substance. • After July 1, 2024: <ul style="list-style-type: none"> ○ Any person who, for consideration, intentionally distributes any controlled substance or counterfeit substance and another person dies as a direct result of using the substance is guilty of a Class 2 felony. ○ If three or more aggravating circumstances apply, then the person is guilty of a Class 1 felony. ○ If the substance is fentanyl and the person knew the substance was fentanyl, then the person is guilty of a Class 1 felony. ○ If the decedent is a minor, then the person is guilty of a Class C felony.
Affirmative defense of DIH/DDRDR offense	None
Recently proposed legislation	None, other than legislation enacted in 2024

<u>TENNESSEE</u>	
Statute(s)	<ul style="list-style-type: none"> • TENN. CODE ANN. § 63-1-156 (West 2024) • TENN. CODE ANN. § 39-13-210 (West 2024)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • July 1, 2015 – § 63-1-156 enacted • July 1, 2018 – § 39-13-210 enacted • July 1, 2023 – Amends § 63-1-156 to remove the provision that the immunity only applies on the person’s first drug overdose. Immunity can now be applied to subsequent drug overdoses at the discretion of the responding law enforcement officer or the district attorney general’s office.
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 2024)).
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 2024)).
Protection as to other crimes/violations	An eligible person will not be subject to: <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 on the eligible person’s first such drug overdose. Immunity from being arrested, charged, or prosecuted may be applied if the person experiences subsequent drug overdoses at the discretion of the responding law enforcement officer or the district attorney general's office.

<u>TENNESSEE</u>	
Exception(s) to protection (continued)	<ul style="list-style-type: none"> • 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 ○ 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	Yes
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	Yes, see Pending State and Federal Legislation

<u>TEXAS</u>	
Statute(s)	<ul style="list-style-type: none"> • TEX. HEALTH & SAFETY CODE ANN. §§ 481.115 to .118 (West 2024) (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 2024) (protection for the manufacture, delivery, or possession of miscellaneous substances) • TEX. HEALTH & SAFETY CODE ANN. § 481.121(West 2024) (protection for possession of marijuana) • TEX. HEALTH & SAFETY CODE ANN. § 481.125 (West 2024) (protection for drug paraphernalia offenses) • TEX. HEALTH & SAFETY CODE ANN. § 485.031 (West 2024) (protection for abusable volatile chemicals) • TEX. HEALTH & SAFETY CODE ANN. § 483.041 (West 2024) (protection for possession of a dangerous drug without a prescription) • TEX. HEALTH & SAFETY CODE ANN. § 481.141 (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • September 1, 2003 – § 481.141 enacted • September 1, 2021 – §§ 481.115 to .118, § 481.119, § 481.121, § 481.125, § 485.031, § 483.041 enacted
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	<p>An eligible person has a defense to prosecution for the offense of possession or delivery of drug paraphernalia.</p>
Protection as to other crimes/violations	None
Requirement(s) for the protection to apply	<p>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.</p>

<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	Yes
Classification of DIH/DRRD offense	Felony; punishment for the offense is increased by one degree

<u>TEXAS</u>	
Circumstance(s) when DIH/DRDD applies	If at the guilt or innocence phase of the trial of an offense, the judge or jury, whichever is the trier of fact, determines beyond a reasonable doubt that a person died or suffered serious bodily injury as a result of injecting, ingesting, inhaling, or introducing into the person's body any amount of the controlled substance manufactured or delivered by the defendant, regardless of whether the controlled substance was used by itself or with another substance, including a drug, adulterant, or dilutant. Applies to an offense otherwise punishable as a state jail felony, felony of the third-degree, or felony of the second-degree under TEX. HEALTH & SAFETY CODE ANN. §§ 481.112 (manufacture or delivery of substance in penalty group 1); 481.1121 (manufacture or delivery of substance in penalty group 1-A); 481.1123 (manufacture or delivery of substance in penalty group 1-B); 481.113 (manufacture or delivery of substance in penalty group 2 or 2-A); 481.114 (manufacture or delivery of substance in penalty group 3 or 4); or 481.122 (delivery of controlled substance or marijuana to child).
Affirmative defense of DIH/DRDD offense	None
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>UTAH</u>	
Statute(s)	<ul style="list-style-type: none"> • UTAH CODE ANN. § 58-37-8(16) (West 2024) (Good Samaritan protections) • UTAH CODE ANN. § 76-3-203.11 (West 2024) (mitigating factor in sentencing)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • March 20, 2014 – § 58-37-8(16) and § 76-3-203.11 enacted • 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 2024)).
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 2024)).
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	Yes, see Pending State and Federal Legislation

<u>VERMONT</u>	
Statute(s)	<ul style="list-style-type: none"> • VT. STAT. ANN. tit. 18, § 4254 (West 2024) (GSFOP law) • VT. STAT. ANN. tit. 18, § 4250 (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • June 4, 2003 – § 4250 enacted • June 5, 2013 – § 4254 enacted • June 17, 2014 – Amendment added protections for a person who is the subject of a good faith request for medical assistant 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 2024) (“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 2024)) 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 2024)). • 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.

<u>VERMONT</u>	
Reporting overdose a mitigating factor in sentencing	Yes
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	Yes
Classification of DIH/DRDD 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/DRDD offense	VT. STAT. ANN. tit. 18, § 4250 (West 2024) is within Chapter 84 of the Vermont Statutes. Thus, a person eligible for Good Samaritan protection under VT. STAT. ANN. tit. 18, § 4254 (West 2024) may not be cited, arrested, or prosecuted under VT. STAT. ANN. tit. 18, § 4250 (West 2024).
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>VIRGINIA</u>	
Statute(s)	VA. CODE ANN. § 18.2-251.03 (West 2024)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • July 1, 2015 – § 18.2-251.03 enacted • 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 2023)); or (2) possession of marijuana (VA. CODE ANN. § 18.2-250.1 (West 2024)).
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 2024)).
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 2024)); or (2) offense of public intoxication (VA. CODE ANN. § 18.2-388 (West 2024)).

<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/DRDD offense	N/A
Circumstance(s) when DIH/DRDD applies	N/A
Affirmative defense of DIH/DRDD offense	N/A
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>WASHINGTON</u>	
Statute(s)	<ul style="list-style-type: none"> • WASH. REV. CODE ANN. § 9.94A.535(1)(i) (West 2024) (mitigating factor for sentencing) • WASH. REV. CODE ANN. § 69.50.315 (West 2024) (Good Samaritan protections) • WASH. REV. CODE ANN. § 69.50.415 (West 2024) (DIH/DDRDR law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • June 10, 2010 – § 9.94A.535(1)(i) and § 69.50.315 enacted • March 28, 1996 – § 69.50.415 enacted
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 2024)); or (2) possession of 40 grams or less of marijuana (WASH. REV. CODE ANN. § 69.50.4014 (West 2024)).
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 DDRDR provision in state law	Yes
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 2024) 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	Yes, see Pending State and Federal Legislation

<u>WEST VIRGINIA</u>	
Statute(s)	<ul style="list-style-type: none"> • W. VA. CODE ANN. §§ 16-47-1 to 47-6 (West 2024) (GSFOP law) • W. VA. CODE ANN. § 60A-4-416 (West 2024) (DIH/DDRDL law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • June 12, 2015 – §§ 16-47-1 to 47-6 enacted • July 7, 2017 – § 60A-4-416 enacted
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 2024)).
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 2024)); ○ Purchasing alcohol from a licensee through misrepresentation of age (W. VA. CODE ANN. §§ 60-8-20A(b) and 60-3A-24(b) (West 2024)); 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 2024)). • 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	Yes
Classification of DIH/DRRD offense	Felony

<u>WEST VIRGINIA</u>	
Circumstance(s) when DIH/DRDD applies	<ul style="list-style-type: none"> • Knowingly and willfully delivering a controlled substance or counterfeit controlled substance in violation of W. VA. CODE ANN. § 60A-4-401 (West 2024) for an illicit purpose and the use, ingestion, or consumption of the controlled substance or counterfeit alone or in combination with one or more other controlled substances, proximately causes the death of a person using, ingesting or consuming the controlled substance. Upon conviction a person will be imprisoned for a determinate sentence of no less than three nor more than 15 years. • While engaged in the illegal use of a controlled substance with another, an individual knowingly fails to seek medical assistance for another person when the other person suffers an overdose of the controlled substance or suffers a significant adverse physical reaction to the controlled substance and the overdose or adverse physical reaction proximately causes the death of the other person. Upon conviction a person will be imprisoned for no less than one year nor more than five years.
Affirmative defense of DIH/DDRDR offense	Seeking medical assistance for another person provides immunity to the “failure to render aid” offense, but not to the DDRDR offense.
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>WISCONSIN</u>	
Statute(s)	<ul style="list-style-type: none"> • WIS. STAT. ANN. § 961.443 (West 2024) (GSFOP law) • WIS. STAT. ANN. § 940.02 (West 2024) (DIH/DDRD law)
Substantive amendments to law(s)	<ul style="list-style-type: none"> • July 26, 2002 – § 940.02 enacted • April 9, 2014 – § 961.443 enacted • 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. • August 6, 2023- Increased the penalty for DIH.
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 2024)).
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 2024)).
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 2024)).
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

<u>WISCONSIN</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	Yes
Classification of DIH/DRDD offense	First-degree reckless homicide (Class B felony)
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/DRDD offense	None
Recently proposed legislation	Yes, see Pending State and Federal Legislation

<u>WYOMING</u>	
Statute(s)	<ul style="list-style-type: none"> No state law explicitly pertaining to Good Samaritan fatal overdose prevention WYO. STAT. ANN. § 6-2-108 (West 2024)
Substantive amendments to law(s)	July 1, 2010 – § 6-2-108 enacted
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	Yes
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	Yes, see Pending State and Federal Legislation

<u>AMERICAN SAMOA</u>	
Statute(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/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>GUAM</u>	
Statute(s)	<ul style="list-style-type: none"> No jurisdictional law explicitly pertaining to Good Samaritan fatal overdose prevention 9 GUAM CODE ANN. §§ 16.30 and 16.40 (West 2023) (aggravated murder and murder)
Substantive amendments to law(s)	October 16, 1998 – §§ 16.30 and 16.40 enacted
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	Yes
Classification of DIH/DRDD 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/DRDD offense	None
Recently proposed legislation	None

<u>NORTHERN MARIANA ISLANDS</u>	
Statute(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)	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/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>U.S. VIRGIN ISLANDS</u>	
Statute(s)	<ul style="list-style-type: none"> No jurisdictional law explicitly pertaining to Good Samaritan fatal overdose prevention V.I. CODE ANN. tit. 19, § 612a (West 2023)
Substantive amendments to law(s)	November 9, 1990 – § 612a enacted
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	Yes
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

<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
Federal S. 4112, 118th Cong. (2nd Sess. 2024).	This bill would provide protection from prosecution for drug possession to individuals who seek medical assistance when witnessing or experiencing an overdose.
<u>Alabama</u> H.B. 10, 2024 Leg., Reg. Sess. (Ala. 2024) (enrolled).	This bill would amend the DIH/DDRD manslaughter offense to apply only to controlled substances that contain fentanyl, any mixture containing fentanyl, any synthetic controlled substance fentanyl, or any synthetic controlled substance fentanyl analogue. This bill also adds that it is not a defense that the person who sold, furnished, gave away, delivered, or distributed the controlled substance had no knowledge that the controlled substance contained fentanyl, a mixture containing fentanyl, any synthetic controlled substance fentanyl, or any synthetic controlled substance fentanyl analogue
<u>Alaska</u> H.B. 66, 33rd Leg., Reg. Sess. (Alaska 2023) (passed in House; died in Senate committee); S.B. 64, 33rd Leg., Reg. Sess. (Alaska 2023) (died in committee).	This bill would repeal the DIH/DDRD manslaughter offense and change DIH/DDRD to a second-degree murder offense.
<u>Arizona</u> S.B. 1028, 56th Leg., 2nd Reg. Sess. (Ari. 2024) (bill died upon legislature's adjournment).	This bill would add protection from arrest to the Good Samaritan fatal overdose prevention law.
<u>Arizona</u> S.B. 1029, 56th Leg., 1st Reg. Sess. (Ari. 2023) (bill died upon legislature's adjournment).	This bill would add additional circumstances for when the DIH/DRDD law applies. The additional circumstances are: (1) narcotic offenses under ARIZ. REV. STAT. ANN. § 13-3408(A)(2), (4), and (7) (West 2024) if the narcotic involved is fentanyl; and (2) the narcotic offense was committed as part of the person's association with and participation in the conduct of an enterprise as defined in ARIZ. REV. STAT. ANN. § 13-2301(D)(2) (West 2024) that is engaged in dealing in illegal drugs and the person organized, managed, directed, supervised, or financed the enterprise with the intent to promote or future its criminal objectives.

<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
<p><u>California</u> S.B. 21, 2023-2024 Reg. Sess. (Cal. 2024) (pending in committee).</p>	<p>This bill would require the court to advise a person who is convicted of, or who pleads guilty or no contest to HEALTH & SAFETY CODE § 11351 (possession or purchase for sale of designated controlled substances) or HEALTH & SAFETY CODE § 11352 (transportation, sale, giving away, etc., of designated controlled substances) where the substance contained fentanyl or a fentanyl analog, of the danger of selling or administering illicit drugs and counterfeit pills and that, if a person dies as a result of that action, the defendant can be charged with homicide.</p>
<p><u>Connecticut</u> H.B. 5057, 2023 Gen. Assemb., Jan. Sess. (Conn. 2023) (bill died upon legislature's adjournment).</p>	<p>This bill establishes the new crime of murder in the case of a person selling fentanyl to another person who dies from an overdose of such fentanyl.</p>
<p><u>Connecticut</u> H.B. 6116, 2023 Gen. Assemb., Jan. Sess. (Conn. 2023) (bill died upon legislature's adjournment); S.B. 884, 2023 Gen. Assemb., Jan. Sess. (Conn. 2023) (bill died upon legislature's adjournment).</p>	<p>This bill establishes that a person is guilty of manslaughter in the first degree when such person engages in activity constituting a violation CONN. GEN. STAT. ANN. § 21a-277 (West 2024) or CONN. GEN. STAT. ANN. § 21a-278 (West 2024), and as a result of such distributing, selling, prescribing, dispensing, offering, giving or administering any controlled substance to another person causes the death of such person.</p>
<p><u>Georgia</u> S.B. 465, 157th Gen. Assemb., 2023-2024 Reg. Sess. (Ga. 2024) (enrolled).</p>	<p>This bill establishes that a person commits the offense of aggravated involuntary manslaughter when he or she causes the death of another human being, without the intent to cause the death of said human being, by intentionally manufacturing, delivering, distributing, or selling any substance that is, in fact, a controlled substance, counterfeit substance, or imitation controlled substance.</p>
<p><u>Georgia</u> H.B. 932, 157th Gen. Assemb., 2023-2024 Reg. Sess. (Ga. 2024) (pending in committee).</p>	<p>This bill would establish that a person commits the offense of murder when, in commission of a violation of GA. CODE ANN. § 16-13-30(b) or (c) (West 2024), he or she causes the death of another human being, irrespective of malice or intent, by manufacturing or distributing any controlled substance that also contains the Schedule II controlled substance fentanyl. The lack of knowledge that the controlled substance contained fentanyl is not a defense.</p>

<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
<p><u>Illinois</u> H.B. 4479, 103rd Gen. Assemb., 2023-2024 Reg. Sess. (Ill. 2024) (pending in committee).</p>	<p>This bill would amend 720 ILL. COMP. STAT. ANN. 570/414 (West 2024) to provide that a person who reasonably believes that another person is experiencing an overdose and knowingly fails to seek emergency medical assistance for that person is guilty of a Class 4 felony unless the person experiencing the overdose dies as a result of failing to obtain the emergency medical assistance, in which case the penalty for violating this provision is a Class 1 felony.</p>
<p><u>Illinois</u> S.B. 1598, 103rd Gen. Assemb., 2023-2024 Reg. Sess. (Ill. 2023) (pending in committee).</p>	<p>This bill proposes to amend 720 ILL. COMP. STAT. ANN. 5/9-3.3 (West 2024) so that a person commits DIH if the controlled substance is a contributing cause of the person's death.</p>
<p><u>Illinois</u> H.B. 3944, 103rd Gen. Assemb., 2023-2024 Reg. Sess. (Ill. 2023) (pending in committee).</p>	<p>This bill would extend the statute of limitations for drug-induced homicide cases from three years to 10 years.</p>
<p><u>Indiana</u> S.B. 418, 123rd Gen. Assemb., 1st Reg. Sess. (Ind. 2023) (bill died upon legislature's adjournment).</p>	<p>This bill would add immunity protections for an individual who acted in concert with another individual who requested emergency medical assistance for an individual who reasonably appeared to be in need of medical assistance. Adds immunity for an individual who was administered an overdose intervention drug or needed emergency medical assistance. Adds to § 35-38-1-7.1 that a court may consider that a person was convicted of a crime related to the possession of alcohol because another person requested emergency medical assistance for the person as a mitigating circumstance.</p>
<p><u>Indiana</u> H.B. 1325, 123rd Gen. Assemb., 1st Reg. Sess. (Ind. 2023) (bill died upon legislature's adjournment).</p>	<p>This bill amends § 35-42-1-1.5 to add a violation of dealing in fentanyl or a dangerous opiate containing substance (IND. CODE. ANN. § 35-48-4-1.3 (West 2023)) resulting in death a Level 1 felony.</p>
<p><u>Iowa</u> H.F. 2576, 90th Gen. Assemb., 2023-2024 Reg. Sess. (Iowa 2024) (passed in House; pending in Senate).</p>	<p>This bill would establish a cause of action for murder in the first degree by causing the death of another by delivering, dispensing, or providing fentanyl or a fentanyl-related substance.</p>

<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
<p><u>Kansas</u> H.B. 2487, 2023-2024 Leg., Reg. Sess. (Kan. 2024) (passed in House; pending in Senate).</p>	<p>This bill would provide immunity from prosecution for certain drug crimes when persons seek or provide medical assistance related to the use of a controlled substance.</p>
<p><u>Kentucky</u> H.B. 435, 2024 Leg., Reg. Sess. (Ky. 2024) (pending in committee).</p>	<p>This bill would amend § 218A.133 to provide that a person who seeks or renders aid to someone experiencing a possible drug overdose or is the person experiencing a possible drug overdose cannot be arrested on a warrant or be subject to revocation of his or her conditions of release if the evidence for the arrest or motion to revoke is obtained as a result of the need for aid for the possible drug overdose. The immunity extends from the time law enforcement or medical personnel respond at the location of a possible overdose until law enforcement or medical personnel leave the scene. Excludes certain offenses from immunity. Amends the definition of “drug overdose” in § 218A.133 to remove language that requires a layperson to reasonably believe medical assistance is required. This bill also requires the Office of Drug Control Policy to conduct an overdose good Samaritan education and awareness campaign.</p>
<p><u>Kentucky</u> H.B. 292, 2023 Leg., Reg. Sess. (Ky. 2023) (bill died upon legislature’s adjournment).</p>	<p>This bill amends the definition of “drug overdose” in § 218A.133 to remove language that requires a layperson to reasonably believe medical assistance is required.</p>
<p><u>Louisiana</u> S.B. 112, 2023 Leg., Reg. Sess. (La. 2023) (bill died upon legislature’s adjournment).</p>	<p>This bill amends § 14:30.1 to add an increased penalty for when an offender unlawfully distributes or dispenses fentanyl or a mixture or substance containing a detectable amount of fentanyl or its analogues, or carfentanil or a mixture or substance containing a detectable amount of carfentanil or its analogues, which is the direct cause of the death of the recipient who ingested or consumed the controlled dangerous substance.</p>
<p><u>Maine</u> H.P. 483, 131st Leg., 1st Spec. Sess. (Me. 2023) (placed in Legislative Files (dead)).</p>	<p>This bill expands the list of crimes that do not qualify for immunity under ME. REV. STAT. ANN. tit. 17-A § 1111-B (West 2024). The crimes added are: (1) possession of a firearm prohibited person (ME. REV. STAT. ANN. tit. 15 § 393 (West 2024)); (2) unlawful trafficking in scheduled drugs (ME. REV. STAT. ANN. tit. 17-A § 1103 (West 2024)); and (3) unlawfully furnishing scheduled drugs (ME. REV. STAT. ANN. tit. 17-A § 1106 (West 2024)).</p>

<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
<p><u>Maryland</u> H.B. 1245, 2024 Gen. Assemb., Reg. Sess. (Md. 2024) (pending in committee); and S.B. 1075, 2024 Gen. Assemb., Reg. Sess. (Md. 2024) (pending in committee).</p>	<p>This bill would establish a felony offense for the distribution of heroin or fentanyl or a chemical analogue of heroin or fentanyl that the use of which results in the death or serious bodily injury of another. A person who, in good faith, seeks, provides, or assists with the provision of medical assistance to a person experiencing a medical emergency after using heroin or fentanyl would be immune from criminal prosecution for a violation of this section if the evidence for the criminal prosecution was obtained solely as a result of the person seeking, providing, or assisting with the provision of medical assistance.</p>
<p><u>Maryland</u> H.B. 1215, 2023 Gen. Assemb., Reg. Sess. (Md. 2023) (bill died upon legislature's adjournment).</p>	<p>This bill added a treatment requirement for immunity. Adds that a person may not receive immunity more than twice under § 1-210.</p>
<p><u>Massachusetts</u> H.B. 1497, 193rd Leg., 2023-2024 Reg. Sess. (Mass. 2023) (pending in committee; hearing held June 13, 2023).</p>	<p>This bill establishes a DDRD offense. Any person who, in violation of chapter 94C, manufactures, distributes, or dispenses heroin, fentanyl, methamphetamine, lysergic acid diethylamide (LSD), phencyclidine (PCP), or any other controlled substance in Class A, Class B, or Class C, as set forth at section 31 of chapter 94C, is strictly liable for a death which results from the injection, inhalation or ingestion of that substance, and shall be punished by imprisonment for life or for any term of years as the court may order, and by a fine of not more than \$25,000.</p>
<p><u>Minnesota</u> H.F. 3812, 93rd Leg., 2023-2024 Reg. Sess. (Minn. 2024) (pending in committee); and S.F. 3866, 93rd Leg., 2023-2024 Reg. Sess. (Minn. 2024) (pending in committee).</p> <p>H.F. 3614, 93rd Leg., 2023-2024 Reg. Sess. (Minn. 2024) (pending in committee) is a similar bill.</p>	<p>This bill would provide immunity to an individual who acts in concert with a person seeking medical assistance for another person who is experiencing a drug-related overdose. The bill also removes the first person to seek assistance requirement for immunity.</p>
<p><u>Mississippi</u> S.B.2357, 139th Leg., Reg. Sess. (Miss. 2024) (died in committee).</p>	<p>This bill would change the immunity under § 41-29-149.1 from possession of 30 grams or less of marijuana to 70 grams or more of marijuana.</p>

<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
<p><u>Mississippi</u> H.B. 1041, 139th Leg., Reg. Sess. (Miss. 2024) (died in committee); and S.B. 2436, 139th Leg., Reg. Sess. (Miss. 2024) (died in committee).</p>	<p>This bill would remove the knowledge requirement for the crime of fentanyl delivery resulting in death.</p>
<p><u>Mississippi</u> S.B. 2131, 2023 Leg., Reg. Sess. (Miss. 2023) (died in committee).</p>	<p>This bill amends the language of § 41-29-139.1 to state that a person is guilty of fentanyl delivery resulting in death if the person purposefully, knowingly, or recklessly delivers or causes the delivery of fentanyl to another person in exchange for anything of value and death to a person results from the injection, oral ingestion, or inhalation of the fentanyl.</p>
<p><u>Missouri</u> H.B. 1659, 102nd Gen. Assemb., 2nd Reg. Sess. (Mo. 2024) (passed in House); and S.B. 754, 102nd Gen. Assemb., 2nd Reg. Sess. (Mo. 2024) (passed in Senate).</p> <p>H.B. 1544, 102nd Gen. Assemb., 2nd Reg. Sess. (Mo. 2024) (pending in committee); and S.B. 1115, 2nd Reg. Sess. (Mo. 2024) (pending in committee) are similar bills.</p>	<p>This bill would establish a DDRD offense. A person commits the offense of delivery of a controlled substance causing death if a person delivers or distributes a controlled substance under § 579.020 and a death results from the use of such controlled substance. DDRD is a Class A felony.</p>
<p><u>Nebraska</u> L.B. 137, 108th Leg., 1st Reg. Sess. (Neb. 2023). (bill died upon legislature’s adjournment).</p>	<p>This bill would establish a penalty enhancement for a controlled substances violation resulting in death. The person would be punished by the next higher penalty classification than the penalty prescribed.</p>
<p><u>Nevada</u> S.B. 128, 82nd Leg., Reg. Sess. (Nev. 2023) (died upon legislature’s adjournment).</p>	<p>This bill would exempt from immunity the possession of fentanyl, carfentanil, any benzimidazole opiate, or any mixture which contains any such controlled substance if the amount is four milligrams or more. S.B. 343, 82nd Leg., Reg. Sess. (Nev. 2023) is a similar bill.</p>

<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
<u>New Hampshire</u> S.B. 414, 2024 Leg., Reg. Sess. (N.H. 2024) (passed in Senate; pending in House).	This bill would establish a mandatory minimum of 10 years imprisonment for the crime of distribution of a controlled substance resulting in death.
<u>New Jersey</u> A. 5488, 220th Leg., Reg. Sess. (N.J. 2023) (bill died upon legislature's adjournment).	This bill would amend the DIH law to add that an individual who manufactures, distributes, or dispenses xylazine, other than a veterinarian in the ordinary course of professional veterinary practice, is strictly liable for a death which results from the injection, inhalation, or ingestion of that substance.
<u>New York</u> S.B. 4058, 246th Leg., Reg. Sess. (N.Y. 2023) (pending in committee); A. 6967, 246th Leg., Reg. Sess. (N.Y. 2023) (pending in committee).	This bill establishes certain offenses based on homicide due to criminal sale of a controlled substance.
<u>New York</u> A. 2142, 246th Leg., Reg. Sess. (N.Y. 2023) (pending in committee); S.B. 7203, 246th Leg., Reg. Sess. (N.Y. 2023) (pending in committee).	This bill establishes the crime of homicide by the sale of an opiate controlled substance. It shall be a defense to homicide by sale of an opiate controlled substance that the defendant jointly and simultaneously acquired and possessed such opiate controlled substance for joint use with the deceased, with the intent to jointly inject, inhale or otherwise ingest such opiate controlled substance.
<u>North Carolina</u> H.B. 278, 2023 Gen. Assemb., Reg. Sess. (N.C. 2023) (passed in House).	Amends § 90-96.2 to add the unauthorized possession of 28 grams or less of embalming fluid to the list of offenses for which limited immunity from prosecution applies.
<u>North Carolina</u> S.B. 458, 2023 Gen. Assemb., Reg. Sess. (N.C. 2023) (pending in committee).	This bill would repeal and replace § 90-96.2. The new version of the GSFOP law would provide immunity against arrest, charge, and prosecution as opposed to just prosecution. The new version would also make reporting an overdose a mitigating factor in sentencing.

<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
<p><u>Oklahoma</u> H.B. 2110, 59th Leg., 1st Reg. Sess. (Okla. 2023) (passed in House).</p>	<p>Amends OKLA. STAT. ANN. tit. 63, § 2-413.1 to add immunity protections for a person who administers an opioid antagonist to an individual. Immunity protections extended to include both drug and alcohol overdoses. Adds that an eligible person will not be subject to revocation of probation, pretrial release, or parole, or otherwise penalized, nor will the person's property be subject to forfeiture. Adds that an eligible person will not be arrested on an outstanding warrant for a covered offense or a violation of the conditions of the person's probation, pretrial release, or parole. Makes the act of seeking emergency medical assistance for someone who is experiencing a drug or alcohol overdose a mitigating factor in any criminal prosecution for which immunity is not provided.</p>
<p><u>Oregon</u> H.B. 2645, 82nd Leg., Reg. Sess. (Or. 2023) (version signed into law did not contain the mention provisions).</p>	<p>This bill establishes new Class A felonies for (1) the unlawful manufacture of a controlled substance that results in the death of another person from the use of the controlled substance; and (2) the unlawful delivery for consideration of a controlled substance that results in the death of another person from the use of the controlled substance. Amends § 475.898 to add immunity from arrest and prosecution for the unlawful manufacture or delivery for consideration of a controlled substance that results in the death of another person.</p>
<p><u>Oregon</u> S.B. 988, 82nd Leg., Reg. Sess. (Or. 2023) (bill died upon legislature's adjournment).</p>	<p>Amends § 475.898 to add immunity from the imposition of a civil penalty. Adds immunity from arrest, prosecution, or the imposition of a civil penalty for the unlawful possession of fentanyl.</p>
<p><u>Pennsylvania</u> H.B. 2020, 2023-2024 Gen. Assemb., Reg. Sess. (Pa. 2024) (pending in committee).</p>	<p>This bill would require a person to participate in a drug treatment program in order to receive immunity under 35 PA. STAT. AND CONS. STAT. § 780-113.7 (West 2024).</p>
<p><u>Pennsylvania</u> H.B. 1900, 2023-2024 Gen. Assemb., Reg. Sess. (Pa. 2023) (pending in committee).</p>	<p>This bill would amend the drug delivery resulting in death law to add deaths resulting from the intentional manufacturing of a controlled substance. The bill also adds that it is not a defense to an offense if the person died: (1) after voluntarily using a controlled substance or counterfeit controlled substance; or (2) as a result of using the controlled substance or counterfeit controlled substance in combination with alcohol, another controlled substance or with any other drug, compound, mixture, diluent or substance.</p>

<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
<p><u>Pennsylvania</u> H.B. 1326, 2023-2024 Gen. Assemb., Reg. Sess. (Pa. 2023) (pending in committee).</p>	<p>This bill would repeal the offense of drug delivery resulting in death law (18 PA. STAT. AND CONS. STAT. § 2506 (West 2024)) and replace it with a new section entitled “drug delivery resulting in death or serious bodily injury.” The new section would include an affirmative defense that the person was not given or did not receive any service or anything of value in exchange for the delivery of the substance.</p>
<p><u>Pennsylvania</u> S.B. 235, 2023-2024 Gen. Assemb., Reg. Sess. (Pa. 2023) (passed in Senate; pending in House).</p>	<p>This bill establishes that a person commits a felony of the first degree if he or she intentionally sells or engages in a monetary transaction to distribute fentanyl and the distribution results in the death of another due to the use of fentanyl. This offense would be subject to a mandatory minimum sentence of at least 25 years. The immunity provided in 35 PA. STAT. AND CONS. STAT. § 780-113.7 (West 2024) would act as an affirmative defense to this offense.</p>
<p><u>South Carolina</u> H.B. 3476, 125th Gen. Assemb., 1st Reg. Sess. (S.C. 2023) (bill died upon legislature’s adjournment); S.B. 1, 125th Gen. Assemb., 1st Reg. Sess. (S.C. 2023) (bill died upon legislature’s adjournment).</p>	<p>This bill establishes the felony offense of fentanyl-induced homicide. A person commits fentanyl-induced homicide if he or she unlawfully delivers, dispenses, or otherwise provides a fentanyl or a fentanyl-related substance in violation of S.C. CODE ANN. § 44-53-370 (West 2024), and the proximate cause of the death of any other person is the injection, inhalation, absorption, or ingestion of any amount of the fentanyl or fentanyl-related substance.</p>
<p><u>South Carolina</u> H.B. 238, 125th Gen. Assemb., 1st Reg. Sess. (S.C. 2023) (bill died upon legislature’s adjournment); S.B. 586, 125th Gen. Assemb., 1st Reg. Sess. (S.C. 2023) (bill died upon legislature’s adjournment).</p>	<p>This bill establishes the felony offense of drug induced homicide. A person commits drug-induced homicide if he or she unlawfully delivers, dispenses, or otherwise provides a controlled substance to another person, in violation of the provisions of S.C. CODE ANN. 44-53-370 (West 2024) or of S.C. CODE ANN. 44-53-375 (West 2024), and the proximate cause of the death of any other person is the injection, inhalation, absorption, or ingestion of any amount of the controlled substance that was unlawfully delivered, dispensed, or otherwise provided.</p>
<p><u>Tennessee</u> H.B. 75, 113th Gen. Assemb., Reg. Sess. (Tenn. 2023) (bill died upon legislature’s adjournment).</p>	<p>This bill amended TENN. CODE ANN. § 63-1-156 to extends criminal immunity to persons who are experiencing a drug overdose and who are seeking medical assistance, regardless of whether it is their first or subsequent overdose.</p>

<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
<p><u>Texas</u> S.B. 1183, 88th Leg., Reg. Sess. (Tex. 2023) (bill died upon legislature's adjournment); H.B. 4173, 88th Leg., Reg. Sess. (Tex. 2023) (bill died upon legislature's adjournment)</p>	<p>This bill would amend the GSFOP laws to remove the following exceptions to immunity: (1) Person has a prior conviction for a covered offense or a prior placement on deferred adjudication community supervision for any covered offenses; (2) Person successfully relied on the defense to gain acquittal previously; and (3) Person previously requested emergency medical assistance for a possible overdose during the prior 18 months. is a similar bill.</p>
<p><u>Texas</u> H.B. 513, 88th Leg., Reg. Sess. (Tex. 2023) (passed in House).</p>	<p>This bill would make the manufacture or delivery of a controlled substance or marijuana causing death or serious bodily injury its own offense as opposed to a punishment enhancement. A person would commit the offense if he or she knowingly manufactured or delivered a controlled substance, and a person dies or suffers a serious bodily injury as a result. It would be a felony of the third degree if the commission of the offense resulted in serious bodily injury to a person or a felony of a second degree if the commission of the offense resulted in the death of a person.</p>
<p><u>Utah</u> S.B. 254 65th Leg., 2023 Gen. Sess. (Utah 2023) (bill died upon legislature's adjournment).</p>	<p>This bill would establish a DIH law. An actor would commit DIH if, under circumstances not amounting to aggravated murder or murder, (1) the actor knowingly and unlawfully sells at least one controlled substance in violation of UTAH CODE ANN. § 58-37-8(1)(A) (West 2023); and (2) the controlled substance causes or contributes to the death of an individual who ingests, injects, inhales, or otherwise introduces the controlled substance into the individual's body. A violation would be a second degree felony. Fulfilling the GSFOP requirements provides an affirmative defense to DIH.</p>

<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
<p><u>Vermont</u> S.B. 58, 2023-2024 Leg., Reg. Sess. (Vt. 2023) (passed in Senate; pending in House); and H.B. 312, 2023-2024 Leg., Reg. Sess. (Vt. 2023) (pending in committee).</p> <p>S.B. 298, 2023-2024 Leg., Reg. Sess. (Vt. 2024) (pending in committee); and H.B. 767, 2023-2024 Leg., Reg. Sess. (Vt. 2024) (pending in committee).</p>	<p>This bill would amend the DIH/DDRH law to clarify proximate cause of death. The fact that a dispensed or sold substance contains more than one regulated drug is not a defense if the proximate cause of death is the use of the dispensed or sold substance containing more than one regulated drug. There is a permissive inference that the proximate cause of death is the person's use of the regulated drug if the regulated drug contains fentanyl. Adds information on sentencing requirements. is a similar bill.</p>
<p><u>Virginia</u> H.B. 161, 2024 Reg. Sess. (Va. 2024) (vetoed);</p>	<p>This bill would provide immunity from arrest, prosecution, and disciplinary or administrative procedures and penalties for individuals experiencing or reporting overdoses while incarcerated.</p>
<p><u>Virginia</u> H.B. 674, 2024 Reg. Sess. (Va. 2024) (left in committee).</p>	<p>This bill provides that any person who sells, gives, or distributes a substance he or she knows contains two milligrams or more of any mixture or substance containing a detectable amount of fentanyl another person without such person's knowledge that the substance sold, given, or distributed contains any mixture or substance containing a detectable amount of fentanyl, is guilty of attempted murder of the first degree by poison. If such sale, gift, or distribution of two milligrams or more of any mixture or substance containing a detectable amount of fentanyl to another person without such person's knowledge that the substance sold, given, or distributed contains any mixture or substance containing a detectable amount of fentanyl results in the death of such other person from his or her use of such substance, the person who sold, gave, or distributed the mixture or substance containing a detectable amount of fentanyl to such person is guilty of murder of the first degree by poison.</p>

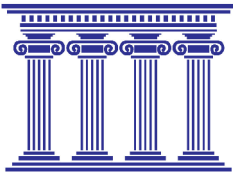
<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
<p><u>Virginia</u> H.B. 685, 2024 Reg. Sess. (Va. 2024) (left in committee).</p>	<p>This bill provides that any person who sells, gives, or distributes a substance he knows or should know contains two milligrams or more of any mixture or substance containing a detectable amount of fentanyl to another person without such person's knowledge that the substance sold, given, or distributed contains fentanyl is guilty of attempted murder of the second degree. The bill also provides that if such sale, gift, or distribution results in the death of the other person from his use of the substance containing fentanyl then the person who sold, gave, or distributed the substance is guilty of murder of the second degree.</p>
<p><u>Virginia</u> H.B.1097, 2024 Reg. Sess. (Va. 2024) (left in committee); S.B.52, 2024 Reg. Sess. (Va. 202) (left in committee).</p>	<p>This bill provided that a person is guilty of felony homicide if the felonious act that result in the killing of one accidentally, contrary to the intention of the parties, involved the manufacture, sale, gift, or distribution of a controlled substance classified in Schedule I or II to another person and such other person’s death result from his or her use of the controlled substance, regardless of the time or place the death occurred in relation to the commission of the underlying felony.</p>
<p><u>Washington</u> H.B. 2477, 68th Leg., 2024 Reg. Sess. (Wash. 2024) (pending in committing).</p>	<p>This bill would make the knowing delivery or distribution of fentanyl, precursor chemicals used in the illicit manufacture of fentanyl, or a counterfeit substance containing fentanyl that results in substantial bodily harm, permanent impairment to cognitive functions, or death of another person an aggravating factor for sentencing.</p>
<p><u>West Virginia</u> S.B. 547, 86th Leg., 2nd Reg. Sess. (W. Va. 2023) (bill died upon legislature’ adjournment).</p>	<p>This bill increases the penalties for DDRD.</p>
<p><u>West Virginia</u> S.B.219, 86th Leg., 2nd Reg. Sess. (W. Va. 2023) (passed in House and Senate).</p>	<p>This bill would amend the DDRD law to add definitions for the phrases “engaged in the illegal use of a controlled substance with another person” and “seek medical assistance.”</p>

<u>PENDING STATE AND FEDERAL LEGISLATION</u>	
State/Bill Number/Status	Description
<p><u>Wisconsin</u> S.B. 595, 106th Leg., 2023-2024 Reg. Sess. (Wis. 2022) (failed to pass); and A.B. 634, 106th Leg., 2023-2024 Reg. Sess. (Wis. 2022) (failed to pass).</p>	<p>This bill would amend WIS. STAT. ANN. § 961.443 (West 2024) to provide that no aider may have his or her parole, probation, or extended supervision revoked if the aider’s attempt to obtain assistance occurs as soon as is practicable after the aider believes the other person is suffering from the overdose or other adverse reaction.</p>
<p><u>Wyoming</u> S.F. 181, 67th Leg., 2023 Gen. Sess. (Wyo. 2023) (passed in Senate, failed to pass House).</p>	<p>Amends WYO. STAT. ANN. § 6-2-108 to add that a person commits DIH if he or she unlawfully delivers fentanyl, heroin, or methamphetamine to another person and that person dies as a result of the injection, inhalation, ingestion, or administration by any other means of any amount of the fentanyl, heroin, or methamphetamine. Makes it a mitigating circumstance at sentencing for any person convicted under the DIH law if the person (1) contacted law enforcement or emergency medical services to report the need for medical assistance for the victim as a result of a drug-related overdose; or (2) provided first aid or other medical assistance to the victim if the victim experienced a drug-related overdose.</p>

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.



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