

By: Raney

H.B. No. 2432

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a defense to prosecution for certain offenses involving
3 possession of small amounts of controlled substances and other
4 prohibited drugs, substances, chemicals, or paraphernalia for
5 defendants seeking assistance for a suspected overdose.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 481.115, Health and Safety Code, is
8 amended by adding Subsections (g), (h), and (i) to read as follows:

9 (g) It is a defense to prosecution for an offense punishable
10 under Subsection (b) that the actor:

11 (1) was the first person to request emergency medical
12 assistance in response to the possible overdose of another person
13 and:

14 (A) made the request for medical assistance
15 during an ongoing medical emergency;

16 (B) remained on the scene until the medical
17 assistance arrived; and

18 (C) cooperated with medical assistance and law
19 enforcement personnel; or

20 (2) was the victim of a possible overdose for which
21 emergency medical assistance was requested, by the actor or by
22 another person, during an ongoing medical emergency.

23 (h) The defense to prosecution provided by Subsection (g) is
24 not available if:

1 (1) at the time the request for emergency medical
2 assistance was made:

3 (A) a peace officer was in the process of
4 arresting the actor or executing a search warrant describing the
5 actor or the place from which the request for medical assistance was
6 made; or

7 (B) the actor is committing another offense,
8 other than an offense punishable under Section 481.1151(b)(1),
9 481.116(b), 481.1161(b)(1) or (2), 481.117(b), 481.118(b), or
10 481.121(b)(1) or (2), or an offense under Section 481.119(b),
11 481.125(a), 483.041(a), or 485.031(a);

12 (2) the actor has been previously convicted of or
13 placed on deferred adjudication community supervision for an
14 offense under this chapter or Chapter 483 or 485; or

15 (3) the actor was acquitted in a previous proceeding
16 in which the actor successfully established the defense under that
17 subsection or Section 481.1151(c), 481.116(f), 481.1161(c),
18 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
19 483.041(e), or 485.031(c).

20 (i) The defense to prosecution provided by Subsection (g)
21 does not preclude the admission of evidence obtained by law
22 enforcement resulting from the request for emergency medical
23 assistance if that evidence pertains to an offense for which the
24 defense described by Subsection (g) is not available.

25 SECTION 2. Section 481.1151, Health and Safety Code, is
26 amended by adding Subsections (c), (d), and (e) to read as follows:

27 (c) It is a defense to prosecution for an offense punishable

1 under Subsection (b)(1) that the actor:

2 (1) was the first person to request emergency medical
3 assistance in response to the possible overdose of another person
4 and:

5 (A) made the request for medical assistance
6 during an ongoing medical emergency;

7 (B) remained on the scene until the medical
8 assistance arrived; and

9 (C) cooperated with medical assistance and law
10 enforcement personnel; or

11 (2) was the victim of a possible overdose for which
12 emergency medical assistance was requested, by the actor or by
13 another person, during an ongoing medical emergency.

14 (d) The defense to prosecution provided by Subsection (c) is
15 not available if:

16 (1) at the time the request for emergency medical
17 assistance was made:

18 (A) a peace officer was in the process of
19 arresting the actor or executing a search warrant describing the
20 actor or the place from which the request for medical assistance was
21 made; or

22 (B) the actor is committing another offense,
23 other than an offense punishable under Section 481.115(b),
24 481.116(b), 481.1161(b)(1) or (2), 481.117(b), 481.118(b), or
25 481.121(b)(1) or (2), or an offense under Section 481.119(b),
26 481.125(a), 483.041(a), or 485.031(a);

27 (2) the actor has been previously convicted of or

1 placed on deferred adjudication community supervision for an
2 offense under this chapter or Chapter 483 or 485; or

3 (3) the actor was acquitted in a previous proceeding
4 in which the actor successfully established the defense under that
5 subsection or Section 481.115(g), 481.116(f), 481.1161(c),
6 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
7 483.041(e), or 485.031(c).

8 (e) The defense to prosecution provided by Subsection (c)
9 does not preclude the admission of evidence obtained by law
10 enforcement resulting from the request for emergency medical
11 assistance if that evidence pertains to an offense for which the
12 defense described by Subsection (c) is not available.

13 SECTION 3. Section 481.116, Health and Safety Code, is
14 amended by adding Subsections (f), (g), and (h) to read as follows:

15 (f) It is a defense to prosecution for an offense punishable
16 under Subsection (b) that the actor:

17 (1) was the first person to request emergency medical
18 assistance in response to the possible overdose of another person
19 and:

20 (A) made the request for medical assistance
21 during an ongoing medical emergency;

22 (B) remained on the scene until the medical
23 assistance arrived; and

24 (C) cooperated with medical assistance and law
25 enforcement personnel; or

26 (2) was the victim of a possible overdose for which
27 emergency medical assistance was requested, by the actor or by

1 another person, during an ongoing medical emergency.

2 (g) The defense to prosecution provided by Subsection (f) is
3 not available if:

4 (1) at the time the request for emergency medical
5 assistance was made:

6 (A) a peace officer was in the process of
7 arresting the actor or executing a search warrant describing the
8 actor or the place from which the request for medical assistance was
9 made; or

10 (B) the actor is committing another offense,
11 other than an offense punishable under Section 481.115(b),
12 481.1151(b)(1), 481.1161(b)(1) or (2), 481.117(b), 481.118(b), or
13 481.121(b)(1) or (2), or an offense under Section 481.119(b),
14 481.125(a), 483.041(a), or 485.031(a);

15 (2) the actor has been previously convicted of or
16 placed on deferred adjudication community supervision for an
17 offense under this chapter or Chapter 483 or 485; or

18 (3) the actor was acquitted in a previous proceeding
19 in which the actor successfully established the defense under that
20 subsection or Section 481.115(g), 481.1151(c), 481.1161(c),
21 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
22 483.041(e), or 485.031(c).

23 (h) The defense to prosecution provided by Subsection (f)
24 does not preclude the admission of evidence obtained by law
25 enforcement resulting from the request for emergency medical
26 assistance if that evidence pertains to an offense for which the
27 defense described by Subsection (f) is not available.

1 SECTION 4. Section [481.1161](#), Health and Safety Code, is
2 amended by adding Subsections (c), (d), and (e) to read as follows:

3 (c) It is a defense to prosecution for an offense punishable
4 under Subsection (b)(1) or (2) that the actor:

5 (1) was the first person to request emergency medical
6 assistance in response to the possible overdose of another person
7 and:

8 (A) made the request for medical assistance
9 during an ongoing medical emergency;

10 (B) remained on the scene until the medical
11 assistance arrived; and

12 (C) cooperated with medical assistance and law
13 enforcement personnel; or

14 (2) was the victim of a possible overdose for which
15 emergency medical assistance was requested, by the actor or by
16 another person, during an ongoing medical emergency.

17 (d) The defense to prosecution provided by Subsection (c) is
18 not available if:

19 (1) at the time the request for emergency medical
20 assistance was made:

21 (A) a peace officer was in the process of
22 arresting the actor or executing a search warrant describing the
23 actor or the place from which the request for medical assistance was
24 made; or

25 (B) the actor is committing another offense,
26 other than an offense punishable under Section [481.115\(b\)](#),
27 [481.1151\(b\)\(1\)](#), [481.116\(b\)](#), [481.117\(b\)](#), [481.118\(b\)](#), or

1 481.121(b)(1) or (2), or an offense under Section 481.119(b),
2 481.125(a), 483.041(a), or 485.031(a);

3 (2) the actor has been previously convicted of or
4 placed on deferred adjudication community supervision for an
5 offense under this chapter or Chapter 483 or 485; or

6 (3) the actor was acquitted in a previous proceeding
7 in which the actor successfully established the defense under that
8 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
9 481.117(f), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
10 483.041(e), or 485.031(c).

11 (e) The defense to prosecution provided by Subsection (c)
12 does not preclude the admission of evidence obtained by law
13 enforcement resulting from the request for emergency medical
14 assistance if that evidence pertains to an offense for which the
15 defense described by Subsection (c) is not available.

16 SECTION 5. Section 481.117, Health and Safety Code, is
17 amended by adding Subsections (f), (g), and (h) to read as follows:

18 (f) It is a defense to prosecution for an offense punishable
19 under Subsection (b) that the actor:

20 (1) was the first person to request emergency medical
21 assistance in response to the possible overdose of another person
22 and:

23 (A) made the request for medical assistance
24 during an ongoing medical emergency;

25 (B) remained on the scene until the medical
26 assistance arrived; and

27 (C) cooperated with medical assistance and law

1 enforcement personnel; or

2 (2) was the victim of a possible overdose for which
3 emergency medical assistance was requested, by the actor or by
4 another person, during an ongoing medical emergency.

5 (g) The defense to prosecution provided by Subsection (f) is
6 not available if:

7 (1) at the time the request for emergency medical
8 assistance was made:

9 (A) a peace officer was in the process of
10 arresting the actor or executing a search warrant describing the
11 actor or the place from which the request for medical assistance was
12 made; or

13 (B) the actor is committing another offense,
14 other than an offense punishable under Section 481.115(b),
15 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.118(b), or
16 481.121(b)(1) or (2), or an offense under Section 481.119(b),
17 481.125(a), 483.041(a), or 485.031(a);

18 (2) the actor has been previously convicted of or
19 placed on deferred adjudication community supervision for an
20 offense under this chapter or Chapter 483 or 485; or

21 (3) the actor was acquitted in a previous proceeding
22 in which the actor successfully established the defense under that
23 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
24 481.1161(c), 481.118(f), 481.119(c), 481.121(c), 481.125(g),
25 483.041(e), or 485.031(c).

26 (h) The defense to prosecution provided by Subsection (f)
27 does not preclude the admission of evidence obtained by law

1 enforcement resulting from the request for emergency medical
2 assistance if that evidence pertains to an offense for which the
3 defense described by Subsection (f) is not available.

4 SECTION 6. Section 481.118, Health and Safety Code, is
5 amended by adding Subsections (f), (g), and (h) to read as follows:

6 (f) It is a defense to prosecution for an offense punishable
7 under Subsection (b) that the actor:

8 (1) was the first person to request emergency medical
9 assistance in response to the possible overdose of another person
10 and:

11 (A) made the request for medical assistance
12 during an ongoing medical emergency;

13 (B) remained on the scene until the medical
14 assistance arrived; and

15 (C) cooperated with medical assistance and law
16 enforcement personnel; or

17 (2) was the victim of a possible overdose for which
18 emergency medical assistance was requested, by the actor or by
19 another person, during an ongoing medical emergency.

20 (g) The defense to prosecution provided by Subsection (f) is
21 not available if:

22 (1) at the time the request for emergency medical
23 assistance was made:

24 (A) a peace officer was in the process of
25 arresting the actor or executing a search warrant describing the
26 actor or the place from which the request for medical assistance was
27 made; or

1 (B) the actor is committing another offense,
2 other than an offense punishable under Section 481.115(b),
3 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b), or
4 481.121(b)(1) or (2), or an offense under Section 481.119(b),
5 481.125(a), 483.041(a), or 485.031(a);

6 (2) the actor has been previously convicted of or
7 placed on deferred adjudication community supervision for an
8 offense under this chapter or Chapter 483 or 485; or

9 (3) the actor was acquitted in a previous proceeding
10 in which the actor successfully established the defense under that
11 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
12 481.1161(c), 481.117(f), 481.119(c), 481.121(c), 481.125(g),
13 483.041(e), or 485.031(c).

14 (h) The defense to prosecution provided by Subsection (f)
15 does not preclude the admission of evidence obtained by law
16 enforcement resulting from the request for emergency medical
17 assistance if that evidence pertains to an offense for which the
18 defense described by Subsection (f) is not available.

19 SECTION 7. Section 481.119, Health and Safety Code, is
20 amended by adding Subsections (c), (d), and (e) to read as follows:

21 (c) It is a defense to prosecution for an offense under
22 Subsection (b) that the actor:

23 (1) was the first person to request emergency medical
24 assistance in response to the possible overdose of another person
25 and:

26 (A) made the request for medical assistance
27 during an ongoing medical emergency;

1 (B) remained on the scene until the medical
2 assistance arrived; and

3 (C) cooperated with medical assistance and law
4 enforcement personnel; or

5 (2) was the victim of a possible overdose for which
6 emergency medical assistance was requested, by the actor or by
7 another person, during an ongoing medical emergency.

8 (d) The defense to prosecution provided by Subsection (c) is
9 not available if:

10 (1) at the time the request for emergency medical
11 assistance was made:

12 (A) a peace officer was in the process of
13 arresting the actor or executing a search warrant describing the
14 actor or the place from which the request for medical assistance was
15 made; or

16 (B) the actor is committing another offense,
17 other than an offense punishable under Section [481.115\(b\)](#),
18 [481.1151\(b\)\(1\)](#), [481.116\(b\)](#), [481.1161\(b\)\(1\)](#) or (2), [481.117\(b\)](#),
19 [481.118\(b\)](#), or [481.121\(b\)\(1\)](#) or (2), or an offense under Section
20 [481.125\(a\)](#), [483.041\(a\)](#), or [485.031\(a\)](#);

21 (2) the actor has been previously convicted of or
22 placed on deferred adjudication community supervision for an
23 offense under this chapter or Chapter [483](#) or [485](#); or

24 (3) the actor was acquitted in a previous proceeding
25 in which the actor successfully established the defense under that
26 subsection or Section [481.115\(g\)](#), [481.1151\(c\)](#), [481.116\(f\)](#),
27 [481.1161\(c\)](#), [481.117\(f\)](#), [481.118\(f\)](#), [481.121\(c\)](#), [481.125\(g\)](#),

1 483.041(e), or 485.031(c).

2 (e) The defense to prosecution provided by Subsection (c)
3 does not preclude the admission of evidence obtained by law
4 enforcement resulting from the request for emergency medical
5 assistance if that evidence pertains to an offense for which the
6 defense described by Subsection (c) is not available.

7 SECTION 8. Section 481.121, Health and Safety Code, is
8 amended by adding Subsections (c), (d), and (e) to read as follows:

9 (c) It is a defense to prosecution for an offense punishable
10 under Subsection (b)(1) or (2) that the actor:

11 (1) was the first person to request emergency medical
12 assistance in response to the possible overdose of another person
13 and:

14 (A) made the request for medical assistance
15 during an ongoing medical emergency;

16 (B) remained on the scene until the medical
17 assistance arrived; and

18 (C) cooperated with medical assistance and law
19 enforcement personnel; or

20 (2) was the victim of a possible overdose for which
21 emergency medical assistance was requested, by the actor or by
22 another person, during an ongoing medical emergency.

23 (d) The defense to prosecution provided by Subsection (c) is
24 not available if:

25 (1) at the time the request for emergency medical
26 assistance was made:

27 (A) a peace officer was in the process of

1 arresting the actor or executing a search warrant describing the
2 actor or the place from which the request for medical assistance was
3 made; or

4 (B) the actor is committing another offense,
5 other than an offense punishable under Section 481.115(b),
6 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b), or
7 481.118(b), or an offense under Section 481.119(b), 481.125(a),
8 483.041(a), or 485.031(a);

9 (2) the actor has been previously convicted of or
10 placed on deferred adjudication community supervision for an
11 offense under this chapter or Chapter 483 or 485; or

12 (3) the actor was acquitted in a previous proceeding
13 in which the actor successfully established the defense under that
14 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
15 481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.125(g),
16 483.041(e), or 485.031(c).

17 (e) The defense to prosecution provided by Subsection (c)
18 does not preclude the admission of evidence obtained by law
19 enforcement resulting from the request for emergency medical
20 assistance if that evidence pertains to an offense for which the
21 defense described by Subsection (c) is not available.

22 SECTION 9. Section 481.125, Health and Safety Code, is
23 amended by adding Subsections (g), (h), and (i) to read as follows:

24 (g) It is a defense to prosecution for an offense under
25 Subsection (a) that the actor:

26 (1) was the first person to request emergency medical
27 assistance in response to the possible overdose of another person

1 and:

2 (A) made the request for medical assistance
3 during an ongoing medical emergency;

4 (B) remained on the scene until the medical
5 assistance arrived; and

6 (C) cooperated with medical assistance and law
7 enforcement personnel; or

8 (2) was the victim of a possible overdose for which
9 emergency medical assistance was requested, by the actor or by
10 another person, during an ongoing medical emergency.

11 (h) The defense to prosecution provided by Subsection (g) is
12 not available if:

13 (1) at the time the request for emergency medical
14 assistance was made:

15 (A) a peace officer was in the process of
16 arresting the actor or executing a search warrant describing the
17 actor or the place from which the request for medical assistance was
18 made; or

19 (B) the actor is committing another offense,
20 other than an offense punishable under Section 481.115(b),
21 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
22 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
23 481.119(b), 483.041(a), or 485.031(a);

24 (2) the actor has been previously convicted of or
25 placed on deferred adjudication community supervision for an
26 offense under this chapter or Chapter 483 or 485; or

27 (3) the actor was acquitted in a previous proceeding

1 in which the actor successfully established the defense under that
2 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
3 481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),
4 483.041(e), or 485.031(c).

5 (i) The defense to prosecution provided by Subsection (g)
6 does not preclude the admission of evidence obtained by law
7 enforcement resulting from the request for emergency medical
8 assistance if that evidence pertains to an offense for which the
9 defense described by Subsection (g) is not available.

10 SECTION 10. Section 483.041, Health and Safety Code, is
11 amended by adding Subsections (e), (f), and (g) to read as follows:

12 (e) It is a defense to prosecution for an offense under
13 Subsection (a) that the actor:

14 (1) was the first person to request emergency medical
15 assistance in response to the possible overdose of another person
16 and:

17 (A) made the request for medical assistance
18 during an ongoing medical emergency;

19 (B) remained on the scene until the medical
20 assistance arrived; and

21 (C) cooperated with medical assistance and law
22 enforcement personnel; or

23 (2) was the victim of a possible overdose for which
24 emergency medical assistance was requested, by the actor or by
25 another person, during an ongoing medical emergency.

26 (f) The defense to prosecution provided by Subsection (e) is
27 not available if:

1 (1) at the time the request for emergency medical
2 assistance was made:

3 (A) a peace officer was in the process of
4 arresting the actor or executing a search warrant describing the
5 actor or the place from which the request for medical assistance was
6 made; or

7 (B) the actor is committing another offense,
8 other than an offense punishable under Section 481.115(b),
9 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
10 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
11 481.119(b), 481.125(a), or 485.031(a);

12 (2) the actor has been previously convicted of or
13 placed on deferred adjudication community supervision for an
14 offense under this chapter or Chapter 481 or 485; or

15 (3) the actor was acquitted in a previous proceeding
16 in which the actor successfully established the defense under that
17 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
18 481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),
19 481.125(g), or 485.031(c).

20 (g) The defense to prosecution provided by Subsection (e)
21 does not preclude the admission of evidence obtained by law
22 enforcement resulting from the request for emergency medical
23 assistance if that evidence pertains to an offense for which the
24 defense described by Subsection (e) is not available.

25 SECTION 11. Section 485.031, Health and Safety Code, is
26 amended by adding Subsections (c), (d), and (e) to read as follows:

27 (c) It is a defense to prosecution for an offense under

1 Subsection (a) that the actor:

2 (1) was the first person to request emergency medical
3 assistance in response to the possible overdose of another person
4 and:

5 (A) made the request for medical assistance
6 during an ongoing medical emergency;

7 (B) remained on the scene until the medical
8 assistance arrived; and

9 (C) cooperated with medical assistance and law
10 enforcement personnel; or

11 (2) was the victim of a possible overdose for which
12 emergency medical assistance was requested, by the actor or by
13 another person, during an ongoing medical emergency.

14 (d) The defense to prosecution provided by Subsection (c) is
15 not available if:

16 (1) at the time the request for emergency medical
17 assistance was made:

18 (A) a peace officer was in the process of
19 arresting the actor or executing a search warrant describing the
20 actor or the place from which the request for medical assistance was
21 made; or

22 (B) the actor is committing another offense,
23 other than an offense punishable under Section 481.115(b),
24 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b),
25 481.118(b), or 481.121(b)(1) or (2), or an offense under Section
26 481.119(b), 481.125(a), or 483.041(a);

27 (2) the actor has been previously convicted of or

1 placed on deferred adjudication community supervision for an
2 offense under this chapter or Chapter 481 or 483; or

3 (3) the actor was acquitted in a previous proceeding
4 in which the actor successfully established the defense under that
5 subsection or Section 481.115(g), 481.1151(c), 481.116(f),
6 481.1161(c), 481.117(f), 481.118(f), 481.119(c), 481.121(c),
7 481.125(g), or 483.041(e).

8 (e) The defense to prosecution provided by Subsection (c)
9 does not preclude the admission of evidence obtained by law
10 enforcement resulting from the request for emergency medical
11 assistance if that evidence pertains to an offense for which the
12 defense described by Subsection (c) is not available.

13 SECTION 12. The change in law made by this Act applies only
14 to an offense committed on or after the effective date of this Act.
15 An offense committed before the effective date of this Act is
16 governed by the law in effect on the date the offense was committed,
17 and the former law is continued in effect for that purpose. For
18 purposes of this section, an offense was committed before the
19 effective date of this Act if any element of the offense occurred
20 before that date.

21 SECTION 13. This Act takes effect September 1, 2019.