

## Preventing Opioid Overdose: Understanding Good Samaritan Laws

Overdose Good Samaritan laws are policies that provide legal protections for individuals who call for emergency assistance (such as 9-1-1) in the event of a drug overdose. This may include protection from arrest and/or prosecution for crimes related to drug possession, drug paraphernalia possession, and other crimes. These laws are designed to encourage people to summon emergency assistance if they experience or witness a drug overdose.

As of July 2017, 40 states and the District of Columbia have instituted Good Samaritan laws. Yet, lack of awareness and understanding of the protections these laws provide, as well as concerns about their limitations, may be limiting their effectiveness in encouraging overdose bystanders to call for help. These barriers may also prevent the criminal justice system from fully observing them.

Prevention practitioners can play an important role in maximizing awareness of these laws—which vary considerably across states—and educating relevant stakeholders on their strengths and limitations. This tool supports these efforts by providing an overview of this overdose prevention strategy, including the aims of Good Samaritan laws and types of protections they can offer. We also present some of the obstacles that prevent overdose bystanders and the criminal justice system from applying their state's Good Samaritan laws, and steps prevention practitioners can take to raise awareness of these laws among various target populations.

### WHY GOOD SAMARITAN LAWS?

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In an opioid-related emergency, bystanders should—but often don't—call for emergency assistance, which is recommended even when the opioid antidote naloxone is on hand.<sup>1-2</sup> Fear of arrest or prosecution keep many from involving law enforcement or medical teams at the time of an overdose. This is particularly true for individuals who use opioids themselves, who may fear the unwanted attention, stigma, and negative consequences that might accompany a call, or who have had previous negative experiences with law enforcement officers or emergency medical personnel.<sup>1</sup> Overdose Good Samaritan laws are designed to address these fears by protecting overdose victims and those who call for help from some of these potential consequences.

GOOD SAMARITAN LAWS VARY BY STATE

Depending on the state, individuals who seek care for themselves or others in the event of an overdose are eligible for a variety of legal protections.<sup>3</sup> The table below describes the different types of legal protections that states offer in their Good Samaritan laws.

Types of Protection	Information and Considerations
<p><b>Immunity from arrest, charge, and/or prosecution for <i>controlled substance possession</i> crimes</b></p>	<ul style="list-style-type: none"> <li>• Most states with Good Samaritan laws offer immunity from being charged or prosecuted— actions that occur after an arrest. Fewer specify immunity from arrest itself. Specifically:                             <ul style="list-style-type: none"> <li>○ 23 states offer immunity from arrest, 30 offer immunity from charges, and 32 offer immunity from prosecution.</li> </ul> </li> <li>• In most states, immunity does not offer protection related to crimes involving the sale, distribution, or trafficking of controlled substances.</li> </ul>
<p><b>Immunity from arrest, charge, and/or prosecution for <i>drug paraphernalia possession</i> crimes</b></p>	<ul style="list-style-type: none"> <li>• Fewer states offer these protections. Specifically:                             <ul style="list-style-type: none"> <li>○ 16 states offer immunity from arrest, 19 offer immunity from charges, and 25 offer immunity from prosecution.</li> </ul> </li> <li>• Some states (e.g., Alaska, Vermont) do not specify this protection because they do not consider paraphernalia possession to be a crime.</li> </ul>
<p><b>Immunity from being considered in violation of...</b></p> <ul style="list-style-type: none"> <li>- <b><i>A protective or restraining order</i></b></li> <li>- <b><i>The conditions of a supervision status, such as probation, parole, and/or pretrial conditions (e.g., release pending trial, sentencing, or appeal)</i></b></li> </ul>	<ul style="list-style-type: none"> <li>• Even fewer states allow for these types of immunities. Specifically:                             <ul style="list-style-type: none"> <li>○ 8 states provide immunity for protective/restraining order violations: Arkansas, Georgia, Hawaii, Mississippi, Montana, Nevada, Tennessee, and Vermont.</li> <li>○ 18 states provide immunity for supervision status violations: Arkansas, Delaware, Georgia, Hawaii, Maryland, Minnesota, Mississippi, Montana, North Carolina, New Jersey, Nevada, Oregon, Pennsylvania, Rhode Island, Tennessee, Vermont, West Virginia, and the District of Columbia.</li> </ul> </li> </ul>

Types of Protection	Information and Considerations
<p><b>Immunity from <i>other controlled substance-related crimes</i></b></p>	<ul style="list-style-type: none"> <li>• Some states provide immunity for a more expansive list of crimes related to substance use, distribution, or sale. For example:                             <ul style="list-style-type: none"> <li>○ Alabama provides protection from all misdemeanor controlled substance offenses except driving under the influence.</li> <li>○ In Nevada, North Dakota, and New Jersey, immunity applies to controlled substance <i>use</i> offenses. Oregon provides protection from being in a place where drugs are used.</li> </ul> </li> </ul>
<p><b>Alternatives to immunity</b></p>	<ul style="list-style-type: none"> <li>• Providing aid or seeking help may be a mitigating factor (i.e., fact or circumstance that lessens the severity or culpability of a criminal act) in the prosecution of crimes for which immunity is not provided.                             <ul style="list-style-type: none"> <li>○ 15 states permit the actions of providing aid or seeking help as a mitigating factor. For example, Minnesota and Montana specify that an individual who provides first aid or medical assistance to another person experiencing an overdose may use this as a mitigating factor for a crime in which immunity is not provided.</li> </ul> </li> <li>• Some states offer affirmative defense, which allows the accused to introduce evidence in court which, if found to be credible, can negate criminal liability (even in cases where it is proven that the accused committed the alleged acts).                             <ul style="list-style-type: none"> <li>○ For example, Utah and Virginia allow affirmative defense to be used as protection from prosecution for drug and paraphernalia possession crimes.</li> </ul> </li> </ul>
<p><b>Protection from <i>civil forfeiture</i></b></p>	<ul style="list-style-type: none"> <li>• Four states protect individuals from civil forfeiture (i.e., legal processes that allow law enforcement to take assets from those suspected of illegal activity): Hawaii, Mississippi, Nevada, and Vermont.</li> </ul>

As of July 2017

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Some states attach conditions or requirements to their Good Samaritan laws for immunity to be granted. These may:

- **Require that individuals who summon help remain at the scene of the overdose, cooperate with law enforcement, and/or provide their legal name.** For example, Delaware requires that the person summoning help provides to emergency personnel “all relevant medical information” related to the cause of the overdose that they are aware of. Other states, such as Alaska, Colorado, and Indiana, require that the individual remains at the scene and identify him/herself to authorities.<sup>3</sup>
- **Specify that only the individual who summons help and/or the victim of the overdose receive immunity; others may be prosecuted if they remain on the scene.** For example, North Dakota specifies that no more than three people can gain immunity for one overdose occurrence. Other states, such as Colorado and Nebraska, provide immunity only to the first individual who requests assistance during the emergency. Alaska only provides immunity to the person who summoned help (and not the overdose victim).<sup>3</sup>
- **Require the individual who would have been charged to receive drug testing and a referral to an addiction treatment program or professional.** For example, Ohio provides immunity only if the caller or victim “seeks and obtains a screening and receives a referral for treatment” within 30 days.<sup>3</sup>
- **Limit the number of times that an individual can be eligible for immunity.** For example, North Dakota specifies that the individual who summons help “shall only qualify once for immunity under this Act.” In Ohio, an individual qualifies for immunity a maximum of two times.<sup>3</sup>

### FACTORS LIMITING THE USE OF GOOD SAMARITAN LAWS

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Even if a state has a Good Samaritan law, various obstacles can prevent the law from being fully utilized by the public or criminal justice professionals (e.g., law enforcement, prosecutors).

#### Lack of awareness

Individuals who engage in the non-medical use of prescription drugs —particularly young people— may be less likely to be aware of Good Samaritan laws (compared with intravenous drug users).<sup>4-5</sup>

- Studies suggest that young adults, age 18 to 32, who engage in non-medical prescription drug use, but who do not have a history of heroin use, are less likely to be aware of their state’s Good Samaritan law.<sup>4</sup> Furthermore, they tend to see themselves as distinct from individuals who inject heroin, and are thus unlikely to interact with traditional harm reduction services that provide education on overdose prevention and Good Samaritan laws.<sup>5</sup>

Law enforcement officers may not be fully aware of their state’s Good Samaritan law or understand the extent of the protections that the law offers.

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- In a survey of Seattle police officers one year after the passage of Washington State's Good Samaritan law, only 16 percent had heard of the law, only 7 percent could correctly identify the law's protections, and only 1 percent felt that they had received clear guidance on the law from the police department.<sup>6</sup>

### Skepticism and lack of trust

Even if they are aware of the Good Samaritan law, many individuals at risk for encountering an overdose often report a strong distrust of law enforcement and skepticism that the law will protect them. These are likely to be individuals with criminal histories, such as outstanding warrants or probation status.<sup>1</sup> These individuals, particularly those who inject drugs, are more likely to delay or not call for help during an overdose.<sup>17</sup>

- Media reports of individuals being arrested after experiencing or intervening in an overdose despite the presence of a Good Samaritan law may contribute to this lack of trust.<sup>8-12</sup>
- Studies suggest these individuals may hesitate to call for help even if they know about Good Samaritan laws. They may fear arrest, withdrawal symptoms in jail, getting others in trouble, or hold the belief that they do not need professional help if they have naloxone on hand.<sup>1</sup>

## THE ROLE OF PREVENTION PRACTITIONERS

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These challenges present opportunities for prevention practitioners to increase awareness and applications of their state's Good Samaritan laws.

### Educating law enforcement

Prevention practitioners are in a position to clarify the specific protections offered in the law and provide the health and safety benefits of upholding the immunity protections (i.e., saving lives and improving trust in the police). Various tools can be used,<sup>13</sup> including educational videos,<sup>14-15</sup> in-person department trainings,<sup>16-20</sup> and online trainings.<sup>21</sup> For example, the North Carolina Harm Reduction Coalition provides information about the state's Good Samaritan law (and the risks of not following its legal protections) during overdose crisis intervention trainings in police departments in North Carolina, Georgia, and South Carolina.<sup>22-23</sup>

### Educating other criminal justice professionals

Prevention practitioners can educate professionals who have the authority to charge, prosecute, and provide legal representation to individuals with drug-related crimes (e.g., prosecutors, magistrates, court-appointed defense attorneys). Options include delivering presentations and distributing communication materials in district attorney and public defender offices and during professional conferences.<sup>23</sup>

### Educating intravenous drug users who are likely to encounter an overdose

Prevention practitioners can provide details about the state's Good Samaritan law via informational materials (e.g., posters, pamphlets) and trainings at needle exchanges, drug treatment facilities, and

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correctional facilities.<sup>23-25</sup> Targeted public service announcements (PSAs) and advertisements are also useful.<sup>26-28</sup>

- In Seattle, visitors to needle exchanges receive wallet-sized cards that describe the state's 911 Good Samaritan law and where one can learn more about it. To assure people that they can count on the law's legal protections, overdose educators also tell participants that all Seattle patrol officers have been trained on the law.<sup>15,24,29</sup>
- Twice a year, representatives from the North Carolina Harm Reduction Coalition visit the lobbies of methadone clinics throughout the state to talk with patients and provide them with information and brochures about naloxone and the Good Samaritan law.<sup>23</sup>

### Educating individuals who engage in non-medical use of prescription drugs

To reach this population, which is less likely to receive services at traditional harm reduction programs, campaigns have used flyers, online PSAs, and social media messaging to discourage abuse of prescription drugs in general as well as share information about Good Samaritan laws.<sup>28,30-31</sup>

### Educating the general public

Prevention practitioners can also implement broad awareness campaigns<sup>30,32</sup>: PSAs on television and social media,<sup>32-36</sup> billboards,<sup>33,37-38</sup> posters and flyers,<sup>36,39</sup> and advertisements on transportation hubs and vehicles,<sup>33-35,37</sup> and park benches.<sup>38</sup>

- The New York Police Department launched a public service announcement and paid advertising campaign to raise awareness of the state's Good Samaritan law. The campaign targeted the 30 precincts where drug overdoses and deaths from overdoses are the highest and included social media messaging and advertisements on public transit vehicles.<sup>34-35</sup>
- Manatee County in Central Florida ran a two-year public awareness campaign to raise awareness of the Good Samaritan law, which featured a PSA on local television and in movie theaters, a social media campaign, and distribution of information cards to adolescents and young adults in schools and colleges.<sup>36</sup>

## WHERE CAN PREVENTION PRACTITIONERS LEARN MORE?

More information about state Good Samaritan laws can be found in the following resources:

- **[The Prescription Drug Abuse Policy System database: Good Samaritan Overdose Prevention Laws](#)**. This website features an interactive map of the United States that allows users to look up Good Samaritan laws by state. As of July 2017, the site covered laws passed from 1/1/01 to 12/1/16.
- **[The Network for Public Health Law fact sheet: Legal Interventions to Reduce Overdose Mortality](#)**. This fact sheet describes Good Samaritan laws by state (as of July 2017).

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For more detailed information regarding what is permitted in your state, these sources may be helpful:

- **State-level practitioners in your state's health department.** See [this page from the Centers for Disease Control and Prevention](#) to look up Health Departments by state or territory.
- **The Network of Public Health Law.** The Network for Public Health provides no-cost technical assistance to support the development, implementation, and enforcement of policies that support public health objectives. It works with public health practitioners; local, tribe, state, and federal officials; policy makers; public health advocates; and others.

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