

Substance Use and Recovery Services Plan Recommendation

Recommendation – Provide technical amendments to the Good Samaritan Law, [RCW 69.50.315](#), providing criminal protections for those currently involved in the criminal legal system. Along with updating RCW 4.24.300 to provide employer/employee civil liability protections.

Bill Requirement(s) –5476 Section 1.3 (a), (c), (d), (e), (f), (g)

Background & Supporting Data:

There is a barrier for those who are currently involved in the criminal legal system from accessing emergency care in the event of an overdose even with the protections of the current Good Samaritan Law. The subcommittee identified a need for substantive changes to [RCW 69.50.315 – Medical Assistance – Drug-related overdose-Prosecution for possession](#) to include:

Medical assistance—Drug-related overdose—Prosecution for possession.

(1) A person acting in good faith who seeks medical assistance for someone experiencing a drug-related overdose shall not be [arrested/detained](#), charged, or prosecuted for possession of a controlled substance pursuant to RCW [69.50.4013](#), or penalized under RCW [69.50.4014](#), if the evidence for the charge of possession of a controlled substance was obtained as a result of the person seeking medical assistance.

(2) A person who experiences a drug-related overdose and is in need of medical assistance shall not be charged or prosecuted for possession of a controlled substance pursuant to RCW [69.50.4013](#), or penalized under RCW [69.50.4014](#), if the evidence for the charge of possession of a controlled substance

was obtained as a result of the overdose and the need for medical assistance.

(3) A person or persons under subsection (1) and subsection (2) of this law will not be arrested, charged, prosecuted, or convicted; have their property subject to civil forfeiture; or otherwise be penalized for:

- A. Violation of a civil restraining order,
- B. Violation of a protection order
- C. Violation of a no contact order
- D. Violation of probation and/or parole, and/or.
- E. Failing to appear for an existing warrant, non-violent, non-sexual charge.

(4) The protection in this section from prosecution for possession crimes under RCW [69.50.4013](#) shall not be grounds for suppression of evidence in other criminal charges.

In [July 2022, a Seattle public library](#) was questioned on their practices of prohibiting employees from carrying or administering drug overdose reversal medication, naloxone or Narcan. Though the Good Samaritan Law, [RCW 69.50.315](#), offers some protection against criminal persecution for possession of a controlled substance, it does not provide adequate protection against civil infractions under RCW [4.24.300](#). [RCW 4.24.300](#) indicates that only a “person, including but not limited to a volunteer provider of emergency or medical services, who without compensation or the expectation of compensation renders emergency care at the scene of an emergency ... shall not be liable for civil damages resulting from any act or omission in the rendering of such emergency care.”

Making the corrective changes to [RCW 4.24.300](#) to support the current statutes to **provide protections to public/private employees in various venues to include state and community programs, law enforcement, Drug Courts and other therapeutic courts such as Family Treatment Court, regardless of volunteer status or compensation by a city, county, or state as an employee.** DOH and HCA strongly encourages anyone who is at risk of witnessing or experiencing an overdose to carry naloxone and have **education** related to how to handle and administer naloxone. Protections should be afforded to all participants in SUD related program be offering naloxone **with no retribution**.

Concerns & Considerations –

This recommendation is a rather large request requiring both criminal and civil changes to possession of a controlled substance. This could very well be two recommendations but the case is also made that when one is updated that both provide the protections needed for the same action.

There are concerns are protections for violations of restraining/no contact/protection orders.

Currently, 9 states have similar immunity within their Good Samaritan Law: <https://www.networkforphl.org/wp-content/uploads/2020/01/legal-interventions-to-reduce-overdose.pdf>

SURSA Committee Feedback:

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