

- SUBJECT:** Establishing a defense to prosecution for some drug offenses
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 9 ayes — Herrero, Carter, Burnam, Canales, Hughes, Leach, Moody, Schaefer, Toth
- 0 nays
- WITNESSES:** For — Bryon Adinoff, Mothers Against Teen Violence; Rebecca Baker, The Jim Utley Foundation; Joy Strickland, Mothers Against Teen Violence; (*Registered, but did not testify:* Yannis Banks, Texas NAACP; Jorge Renaud, Texas Criminal Justice Coalition; Ballard C. Shapleigh, Jaime Esperanza 34th District Attorney; Matt Simpson, ACLU of Texas)
- Against — None
- DIGEST:** CSHB 1743 would establish a defense to prosecution for certain drug offenses if the defendant requested emergency medical services for a possible controlled substance, dangerous drug, or abusable volatile chemical overdose. The defendant would have to:
- request emergency medical assistance in response to the possible overdose of another person;
 - be the first person to request medical assistance;
 - remain on the scene until medical assistance arrived; and
 - cooperate with medical assistance and law enforcement personnel.
- The defense to prosecution would be available for:
- state-jail felony offenses (180 days to two years in a state jail and an optional fine of up to \$10,000) of possession of a substance listed in penalty groups 1, 1-A, or 2 of the Texas Controlled Substances Act;
 - class A misdemeanor offenses (up to one year in jail and/or a maximum fine of \$4,000) for possession of a substance listed in penalty groups 2-A and 3 of the Texas Controlled Substances Act, or possession of marijuana;

- class B misdemeanor offenses (up to 180 days in jail and/or a maximum fine of \$2,000) for possession of a substance listed in penalty Group 2-A and 4 of the Texas Controlled Substances Act, possession of miscellaneous substances, or possession of marijuana; and
- the offenses of possession of drug paraphernalia, a dangerous drug without a prescription, or possession and use of an abusable volatile chemical.

The bill would take effect September 1, 2013, and would apply to offenses committed on or after that date.

**SUPPORTERS
SAY:**

CASHB 1743 would encourage individuals to quickly report possible drug overdoses. Although some contend that an adult engaging in an illegal activity should not be rewarded for reporting emergencies, it is more important to reduce the number of deaths caused by drug overdoses by incentivizing individuals to quickly summon medical assistance.

**OPPONENTS
SAY:**

CASHB 1743 would be an over-expansion of this type of defense. The 82nd Legislature passed a similar measure for alcohol poisoning that applied only to individuals under 21 years of age. This bill would apply to everyone, including adults who should be prepared to accept the full legal consequences of their actions.