

ORDINANCE NUMBER 70311

1 **BOARD BILL NO. 40 INTRODUCED BY ALDERWOMEN CARA SPENCER,**
2 **LYDA KREWSON, ALDERMAN JOSEPH VACCARO, ALDERMAN SCOTT**
3 **OGILVIE, ALDERWOMAN CAROL HOWARD, ALDERMAN CHRIS CARTER,**
4 **ALDERWOMAN MEGAN GREEN, ALDERMAN FRANK WILLIAMSON,**
5 **ALDERMAN KENNETH ORTMANN, ALDERMAN SHANE COHN**

6 An Ordinance pertaining to drug-related overdoses and medical assistance;
7 immunity from prosecution for possession or control; and containing definitions and an
8 emergency clause.

9 **WHEREAS,** drug-overdose deaths are a leading cause of accidental deaths in the
10 nation and deaths have increased significantly in recent years, in Saint Louis; and

11 **WHEREAS,** the drug-overdose deaths could be substantially decreased if
12 immunity from penalty for any Section 11.60 violation of the Saint Louis Code of
13 Ordinances were granted to a person possessing the drug and drug paraphernalia who, in
14 good faith, seeks emergency medical assistance for someone experiencing a drug-related
15 overdose and if this immunity were granted for the same Section 11.60 violations of the
16 Saint Louis Code of Ordinances to a person who is experiencing a drug-related overdose.

17 **WHEREAS,** a police officer has a choice between reporting a city ordinance
18 violation or a state level offense, the police officer may choose the city level offense at
19 his or her discretion.

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Alderman Joseph Vaccaro, Alderman Scott Ogilvie, Alderwoman Carol Howard,
Alderman Chris Carter, Alderwoman Megan Green, Alderman Frank Williamson,
Alderman Kenneth Ortmann, Alderman Shane Cohn

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1 **NOW THEREFORE BE IT ORDAINED BY THE CITY OF ST. LOUIS AS**

2 **FOLLOWS:**

3 **SECTION ONE. Definitions.**

4 “Overdose” means a controlled substance-induced acute condition that results in a
5 life-threatening emergency to the individual who ingested, inhaled, injected, or otherwise
6 bodily absorbed a controlled substance.

7 **SECTION TWO. Immunity.**

8 A person who, in good faith, seeks or obtains emergency medical assistance for a
9 person experiencing an overdose or other medical emergency or for himself or herself
10 shall not be arrested, charged, prosecuted, convicted, or have his or her property subject
11 to civil forfeiture or otherwise be penalized for the following Section 11.60 violations of
12 the Saint Louis Code of Ordinances if the evidence was gained as a result of seeking or
13 obtaining emergency medical assistance:

14 (1) Possession, control, distribution, or attempted distribution of any of the
15 enumerated drugs and drug paraphernalia under Section 11.60.010, Section 11.60.070,
16 Section 11.60.080, and Section 11.60.100;

17 (2) Possession, control, distribution, or attempted distribution of any of controlled
18 substances under Section 11.60.200;

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1 (3) Possession, distribution, control, or attempted distribution of marijuana under
2 Section 11.60.310;

3 (4) Maintaining, managing or controlling premises under Section 11.60.140,
4 Section 11.60.230; and

5 (5) Adulterating under Section 11.60.150.

6 **SECTION THREE. Limitations.**

7 This section does not prohibit a police officer from arresting an individual person
8 for an outstanding warrant pursuant to Section 221.510.1.

9 This section does not prohibit a person from being arrested, charged, or
10 prosecuted

11 based on an offense other than an offense listed in Section 11.60, whether or not
12 the offense arises from the same circumstances as the seeking of health care.

13 The protection in this section from prosecution for possession crimes under
14 Section 11.60.150 shall not be grounds for suppression of evidence or dismissal in
15 charges unrelated to this ordinance.

16 **SECTION FOUR. Resources.**

17 A person who, in good faith, seeks or obtains emergency medical assistance for a
18 person experiencing an overdose or other medical emergency or for himself or herself
19 shall not be arrested at the discretion of the police officer. Any police officer who is in

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1 contact with such person or persons should provide appropriate information and
2 resources for substance-related assistance.

3 **SECTION FIVE. Emergency clause.**

4 This being an Ordinance for the preservation of public peace, health, and safety, it
5 is hereby declared to be an emergency measure within the meaning of Sections 19 and 20
6 of Article IV of the Charter of the City of St. Louis and shall become effective
7 immediately upon its passage and approval by the mayor.

8 **SECTION SIX. Effective Date.**

9 This ordinance shall be in full force and effect from and after the date of its
10 passage and approval and shall remain in effect until amended or repealed by the Board
11 of Aldermen.

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Alderman Kenneth Ortmann, Alderman Shane Cohn**

NOTE: The governor signed this measure on 5/29/2012.

An Act

SENATE BILL 12-020

BY SENATOR(S) Aguilar, Steadman, Boyd, Carroll, Foster, Giron, Guzman, Heath, Hodge, Hudak, Mitchell, Morse, Newell, Roberts, Schwartz, Spence, Tochtrop, White, Williams S.;
also REPRESENTATIVE(S) Summers, Court, Fields, Fischer, Hullinghorst, Kerr A., Labuda, Lee, Singer, Soper, Todd, Vigil, Acree, Duran, Hamner, Kagan, Kerr J., Miklosi, Schafer S., Tyler, Williams A., Wilson, Young.

CONCERNING IMMUNITY FROM CERTAIN CRIMINAL OFFENSES WHEN A PERSON REPORTS IN GOOD FAITH AN EMERGENCY DRUG OR ALCOHOL OVERDOSE EVENT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby declares that Colorado has a strong interest in preventing deaths that result from the use of drugs and alcohol.

(2) The general assembly further declares that:

(a) The creation of a safe haven provision within the state's criminal statutes for a person who reports in good faith an emergency drug or alcohol overdose event serves the state's interest in preventing further deaths from

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

the use of drugs and alcohol; and

(b) By creating such a safe haven provision, the general assembly intends to encourage:

(I) Persons who otherwise would be reluctant to report such an event due to a fear of criminal prosecution to do so without delay; and

(II) Persons who abuse alcohol or drugs to seek treatment and assistance as necessary to obtain a safer, healthier lifestyle.

SECTION 2. In Colorado Revised Statutes, **add 18-1-711** as follows:

18-1-711. Immunity for persons who suffer or report an emergency drug or alcohol overdose event - definitions. (1) A PERSON SHALL BE IMMUNE FROM CRIMINAL PROSECUTION FOR AN OFFENSE DESCRIBED IN SUBSECTION (3) OF THIS SECTION IF:

(a) THE PERSON 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;

(b) THE PERSON 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;

(c) THE PERSON IDENTIFIES HIMSELF OR HERSELF TO, AND COOPERATES WITH, THE LAW ENFORCEMENT OFFICER, EMERGENCY MEDICAL RESPONDER, OR MEDICAL PROVIDER; AND

(d) THE OFFENSE ARISES FROM THE SAME COURSE OF EVENTS FROM WHICH THE EMERGENCY DRUG OR ALCOHOL OVERDOSE EVENT AROSE.

(2) THE IMMUNITY DESCRIBED IN SUBSECTION (1) OF THIS SECTION ALSO EXTENDS TO THE PERSON WHO SUFFERED THE EMERGENCY DRUG OR ALCOHOL OVERDOSE EVENT IF ALL OF THE CONDITIONS OF SUBSECTION (1) ARE SATISFIED.

(3) THE IMMUNITY DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL APPLY TO THE FOLLOWING CRIMINAL OFFENSES:

(a) UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE, AS DESCRIBED IN SECTION 18-18-403.5 (2) (a) (I), (2) (b) (I), OR (2) (c);

(b) UNLAWFUL USE OF A CONTROLLED SUBSTANCE, AS DESCRIBED IN SECTION 18-18-404;

(c) UNLAWFUL POSSESSION OF TWO OUNCES OR LESS OF MARIJUANA, AS DESCRIBED IN SECTION 18-18-406 (1); OR MORE THAN TWO OUNCES OF MARIJUANA BUT NO MORE THAN SIX OUNCES OF MARIJUANA, AS DESCRIBED IN SECTION 18-18-406 (4) (a); OR MORE THAN SIX OUNCES OF MARIJUANA BUT NO MORE THAN TWELVE OUNCES OF MARIJUANA OR THREE OUNCES OR LESS OF MARIJUANA CONCENTRATE AS DESCRIBED IN SECTION 18-18-406 (4) (b);

(d) OPEN AND PUBLIC DISPLAY, CONSUMPTION, OR USE OF LESS THAN TWO OUNCES OF MARIJUANA AS DESCRIBED IN SECTION 18-18-406 (3) (a) (I);

(e) TRANSFERRING OR DISPENSING TWO OUNCES OR LESS OF MARIJUANA FROM ONE PERSON TO ANOTHER FOR NO CONSIDERATION, AS DESCRIBED IN SECTION 18-18-406 (5);

(f) USE OR POSSESSION OF SYNTHETIC CANNABINOIDS OR SALVIA DIVINORUM, AS DESCRIBED IN SECTION 18-18-406.1;

(g) POSSESSION OF DRUG PARAPHERNALIA, AS DESCRIBED IN SECTION 18-18-428; AND

(h) ILLEGAL POSSESSION OR CONSUMPTION OF ETHYL ALCOHOL BY AN UNDERAGE PERSON, AS DESCRIBED IN SECTION 18-13-122.

(4) NOTHING IN THIS SECTION SHALL BE INTERPRETED TO PROHIBIT THE PROSECUTION OF A PERSON FOR AN OFFENSE OTHER THAN AN OFFENSE LISTED IN SUBSECTION (3) OF THIS SECTION OR TO 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 PURSUANT TO SUBSECTION (1) OF THIS SECTION TO INVESTIGATE AND PROSECUTE AN OFFENSE OTHER THAN AN OFFENSE LISTED

IN SUBSECTION (3) OF THIS SECTION.

(5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "EMERGENCY DRUG OR ALCOHOL OVERDOSE EVENT" MEANS AN ACUTE CONDITION INCLUDING, BUT NOT LIMITED TO, PHYSICAL ILLNESS, COMA, MANIA, HYSTERIA, OR DEATH RESULTING FROM THE CONSUMPTION OR USE OF A CONTROLLED SUBSTANCE, OR OF ALCOHOL, OR ANOTHER SUBSTANCE WITH WHICH A CONTROLLED SUBSTANCE OR ALCOHOL WAS COMBINED, AND THAT A LAYPERSON WOULD REASONABLY BELIEVE TO BE A DRUG OR ALCOHOL OVERDOSE THAT REQUIRES MEDICAL ASSISTANCE.

SECTION 3. In Colorado Revised Statutes, 16-11.3-103, **add** (6) as follows:

16-11.3-103. Duties of the commission - mission - staffing - repeal. (6) THE COMMISSION IS ENCOURAGED TO CREATE AND MAKE PUBLICLY AVAILABLE A DOCUMENT DESCRIBING THE PROVISIONS OF SECTION 18-1-711, C.R.S.

SECTION 4. In Colorado Revised Statutes, 18-18-403.5, **amend** (1) as follows:

18-18-403.5. Unlawful possession of a controlled substance. (1) Except as authorized by part 3 of article 22 of title 12, C.R.S., BY SECTION 18-1-711, or by part 2 or 3 of this article, it is unlawful for ~~any~~ A person knowingly to possess a controlled substance.

SECTION 5. In Colorado Revised Statutes, 18-18-404, **amend** (1) (a) as follows:

18-18-404. Unlawful use of a controlled substance. (1)(a) Except as is otherwise provided for offenses concerning marijuana and marijuana concentrate in sections 18-18-406 and 18-18-406.5, ~~any~~ AND AS DESCRIBED BY SECTION 18-1-711, A person who uses any controlled substance, except when it is dispensed by or under the direction of a person licensed or authorized by law to prescribe, administer, or dispense the controlled substance for bona fide medical needs, commits a class 2 misdemeanor.

SECTION 6. In Colorado Revised Statutes, 18-18-406, **amend** (1) and (3) (a) (I) as follows:

18-18-406. Offenses relating to marijuana and marijuana concentrate. (1) ~~Any~~ EXCEPT AS DESCRIBED IN SECTION 18-1-711, A person who possesses two ounces or less of marijuana commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

(3) (a) (I) ~~Any~~ EXCEPT AS DESCRIBED IN SECTION 18-1-711, A person who openly and publicly displays, consumes, or uses two ounces or less of marijuana commits a class 2 petty offense and, upon conviction thereof, shall be punished, at a minimum, by a fine of not less than one hundred dollars or, at a maximum, by a fine of not more than one hundred dollars and, notwithstanding the provisions of section 18-1.3-503, by fifteen days in the county jail.

SECTION 7. In Colorado Revised Statutes, 18-18-428, **amend** (1) as follows:

18-18-428. Possession of drug paraphernalia - penalty. (1) EXCEPT AS DESCRIBED IN SECTION 18-1-711, a person commits possession of drug paraphernalia if he OR SHE possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of this state.

SECTION 8. In Colorado Revised Statutes, 18-13-122, **amend** (2) (a), (4.5) introductory portion, (4.5) (a), (4.5) (b), and (4.5) (d) as follows:

18-13-122. Illegal possession or consumption of ethyl alcohol by an underage person - definitions - adolescent substance abuse prevention and treatment fund - legislative declaration. (2) (a) ~~Any~~ EXCEPT AS DESCRIBED BY SECTION 18-1-711 AND SUBSECTION (4.5) OF THIS SECTION, A person under twenty-one years of age who possesses or consumes ethyl alcohol anywhere in the state of Colorado commits illegal possession or consumption of ethyl alcohol by an underage person. Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.

(4.5) An underage person ~~and one or two other persons~~ shall be immune from criminal prosecution under this section if ~~they establish~~ HE OR SHE ESTABLISHES the following:

(a) ~~One of~~ The underage persons PERSON called 911 and reported IN GOOD FAITH that another underage person was in need of medical assistance due to alcohol consumption;

(b) The underage person who called 911 ~~and, if applicable, one or two other persons acting in concert with the underage person who called 911~~ provided ~~each of their names~~ HIS OR HER NAME to the 911 operator;

(d) The underage person ~~and, if applicable, one or two other persons acting in concert with the underage person~~ who made the 911 call remained on the scene with the underage person in need of medical assistance until assistance arrived and cooperated with medical assistance ~~and~~ OR law enforcement personnel on the scene.

SECTION 9. In Colorado Revised Statutes, 12-47-901, **amend** (1.5) introductory portion, (1.5) (a), (1.5) (b), and (1.5) (d) as follows:

12-47-901. Unlawful acts - exceptions. (1.5) An underage person ~~and one or two other persons~~ shall be immune from criminal prosecution under paragraph (b) or (c) of subsection (1) of this section if ~~they establish~~ HE OR SHE ESTABLISHES the following:

(a) ~~One of~~ The underage persons PERSON called 911 and reported that another underage person was in need of medical assistance due to alcohol consumption;

(b) The underage person who called 911 ~~and, if applicable, one or two other persons acting in concert with the underage person who called 911~~ provided ~~each of their names~~ HIS OR HER NAME to the 911 operator;

(d) The underage person ~~and, if applicable, one or two other persons acting in concert with the underage person~~ who made the 911 call remained on the scene with the underage person in need of medical assistance until assistance arrived and cooperated with medical assistance ~~and~~ OR law enforcement personnel on the scene.

SECTION 10. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

CA statute

11376.5. (a) Notwithstanding any other law, it shall not be a crime for a person to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or drug paraphernalia, if that person, in good faith, seeks medical assistance for another person experiencing a drug-related overdose that is related to the possession of a controlled substance, controlled substance analog, or drug paraphernalia of the person seeking medical assistance, and that person does not obstruct medical or law enforcement personnel. No other immunities or protections from arrest or prosecution for violations of the law are intended or may be inferred.

(b) Notwithstanding any other law, it shall not be a crime for a person who experiences a drug-related overdose and who is in need of medical assistance to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or drug paraphernalia, 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. No other immunities or protections from arrest or prosecution for violations of the law are intended or may be inferred.

(c) This section shall not affect laws prohibiting the selling, providing, giving, or exchanging of drugs, or laws prohibiting the forcible administration of drugs against a person's will.

(d) Nothing in this section shall affect liability for any offense that involves activities made dangerous by the consumption of a controlled substance or controlled substance analog, including, but not limited to, violations of Section 23103 of the Vehicle Code as specified in Section 23103.5 of the Vehicle Code, or violations of Section 23152 or 23153 of the Vehicle Code.

(e) For the purposes of this section, "drug-related overdose" means an acute medical condition that is the result of the ingestion or use by an individual of one or more controlled substances or one or more controlled substances in combination with alcohol, in quantities that are excessive for that individual that may result in death, disability, or serious injury. An individual's condition shall be deemed to be a "drug-related overdose" if a reasonable person of ordinary knowledge would believe the condition to be a drug-related overdose that may result in death, disability, or serious injury.