

BACKGROUND

[“Good Samaritan” laws](#) offer legal protection, or immunity, to those who seek medical attention or administer naloxone to someone experiencing a drug-related overdose and consequently may be at risk of arrest, charge or prosecution for drug-related crimes. These laws aim to reduce fatal overdoses by encouraging people to call 911 if they experience or witness a drug overdose, rather than avoiding law enforcement due to fear of arrest.

From 2013 and 2017, the number of states with drug overdose immunity or sentencing mitigation laws rose from eight states to [40 states and D.C.](#)

WHAT IS PENNSYLVANIA DOING?

[Pennsylvania’s law](#) grants immunity from some controlled substance violations to individuals who report an overdose. Many states also grant immunity to the overdose victim. However, in Pennsylvania, the victim’s immunity is contingent on the immunity of the person reporting the overdose. Contingent immunity has been litigated without a clear outcome in Pennsylvania, causing some confusion for law enforcement.¹

WHAT ARE OTHER STATES DOING?

[In many states, including Pennsylvania](#), a person reporting an overdose must be acting in good faith to be eligible for immunity. Laws in Pennsylvania and 13 other states also require a reasonable belief that the victim is suffering an overdose, and some states further condition immunity on whether an overdose actually occurred. Pennsylvania and 12 other states require that the person reporting the overdose remain with the victim and cooperate with police in order for either party to be granted immunity.

Pennsylvania’s law grants immunity from charges for possession of a controlled substance (along with 31 states and DC) and paraphernalia (20 states and DC), as well as from prosecution for possession of a controlled substance (42 other states and DC) and paraphernalia (28 states and DC). Pennsylvania [does not grant immunity from arrest](#) (unlike 24 states and DC for controlled substances, and 17 states and DC for paraphernalia). Pennsylvania and 14 other states grant immunity for other drug-related crimes.

WHAT ARE THE CHALLENGES?

Varied language of Good Samaritan laws in many states provides opportunities for prosecutors to limit immunity protections. Facilitating prosecution of overdose-related controlled substance offenses counteracts the goal of Good Samaritan laws: to promote seeking medical attention. Additionally, [a lack of public awareness](#) of Good Samaritan protections, as well as their coverage, limits their effectiveness.

¹ See *Commonwealth v. Carontenuto*, 2016 PAsuper 197, 148 A.3d 448; *Commonwealth v. Ohm*, 2017 Pa. Super. Unpub. LEXIS 286, *1-10 (Pa. Super. Ct. Jan. 24, 2017); and *Commonwealth v. McClimon*, 2017 Pa. Super. Unpub. LEXIS 1057, *1-4 (Pa. Super. Ct. Mar. 21, 2017).