

HOUSE BILL NO. 50

INTRODUCED BY R. MARSHALL

BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PROTECTIONS TO PARENTS AND PREGNANT WOMEN WITH SUBSTANCE USE DISORDER; REVISING THE HELP SAVE LIVES FROM OVERDOSE ACT; AND AMENDING SECTION 50-32-609, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-32-609, MCA, is amended to read:

"50-32-609. Good Samaritan and parental protections. (1) The provisions of 45-5-626, 45-9-102, 45-9-107, and 45-10-103 do not apply to:

(a) a person who, acting in good faith, seeks medical assistance for another person who is experiencing an actual or reasonably perceived drug-related overdose if the evidence supporting an arrest, charge, or prosecution was obtained as a result of the person's seeking medical assistance for another person; or

(b) a person who experiences a drug-related overdose and is in need of medical assistance if the evidence supporting an arrest, charge, or prosecution was obtained as a result of the drug-related overdose and the need for medical assistance.

(2) The provisions of 45-9-102, 45-9-107, and 45-10-103 do not apply to:

(A) a pregnant woman seeking or receiving:

~~(a)~~(i) evaluation, treatment, or support services for a substance use disorder; or

~~(b)~~(ii) prenatal health care; OR

(B) A WOMAN SEEKING POSTPARTUM HEALTH CARE UP TO 12 MONTHS AFTER THE DELIVERY OF HER CHILD.

(3) The provisions of 45-5-601(2)(a) do not apply to a person reporting a crime under 45-5-502 or 45-5-503.

(4) A person's pretrial release, probation, furlough, supervised release, or parole may not be

1 revoked based on an incident for which the person would be immune from arrest, charge, or prosecution under
2 this section.

3 (5) A person's act of providing first aid or other medical assistance to a person who is experiencing
4 an actual or reasonably perceived drug-related overdose may be used as a mitigating factor in a criminal
5 prosecution for which immunity is not provided under this section.

6 (6) A parent's positive drug test may not be the sole factor used to:

7 (a) begin a child abuse and neglect investigation under Title 41, chapter 3, part 2;

8 (b) place a child in protective care pursuant to Title 41, chapter 3, part 3;

9 (c) initiate abuse and neglect proceedings as provided for in Title 41, chapter 3, part 4; or

10 (d) terminate parental rights as provided for in Title 41, chapter 3, part 6.

11 ~~(6)~~(7) This section may not be construed to:

12 (a) bar the admissibility of evidence obtained in connection with the investigation and prosecution
13 of other crimes or violations committed by a person who otherwise qualified for limited immunity under this
14 section;

15 (b) limit, modify, or remove immunity from liability currently available to public entities, public
16 employees, or prosecutors or by law; or

17 (c) create a new cause of action or other source of criminal liability for a pregnant woman with a
18 substance use disorder who does not seek or receive evaluation, treatment, or support services for a substance
19 use disorder."

20 - END -