



**ASAM** American Society of  
Addiction Medicine

# Public Policy Statement on Strengthening Good Samaritan Laws to Prevent Fatal Overdose

## Introduction

The criminalization of people who use certain drugs continues to be highly debated and politicized in America. While law enforcement interventions are warranted when an individual possesses specific intent to cause death or bodily injury or commits an act of violence,<sup>1</sup> punitive responses to personal drug use and non-violent, small-scale drug sharing or selling (e.g., between family members and friends) can undercut public health-centered approaches to the drug overdose crisis and threaten the lives of people with addiction. Thus, to encourage more individuals to call for emergency medical assistance during an overdose, ASAM supports governments enacting stronger Good Samaritan laws (GSLs) to grant appropriate protections against arrest and prosecution for certain drug-related crimes for a well-defined group of individuals. This includes protections from drug-induced homicide and drug delivery resulting in death (DIH/DDRD) laws that impose harsh penalties for illegal drug delivery resulting in another's death.

## Background

Strong GSL implementation in conjunction with laws that help ensure access to naloxone are correlated with lower rates of overdose deaths.<sup>2</sup> Since 2007, forty-eight states and one territory have enacted GSLs that generally grant individuals who witness or experience an overdose limited criminal liability protection from low-level drug offenses; however, their scope can vary significantly.<sup>3</sup> For example, some states' GSLs lack protection against arrest for the overdosing individual, which deter witnesses of overdoses from calling emergency medical assistance.<sup>3</sup> One state only protects witnesses who seek such assistance and deliver naloxone, yet immediate access to naloxone is not always available.<sup>3</sup> Other GSLs solely grant immunity to prosecution and do not protect against arrest; however, arrest and detainment can result in trauma to arrestees and immediate or future difficulties in employment, education, and relationships.<sup>4</sup> Nearly half of GSLs do not offer protection against arrest for the offenses covered by the GSL.<sup>2-4</sup>

GSLs apply to different crimes in different states, as some states limit immunity to the crime of drug possession for personal use, while others grant immunity to a broader range of crimes, including drug possession with the intent to distribute, possession of drug paraphernalia, underage alcohol consumption, and violations of protective orders, probation, or parole.<sup>3</sup>

GSLs' inconsistency across states may contribute to uncertainty about the protections GSLs offer, and create hesitation among overdose witnesses in calling emergency medical services (EMS). Indeed, the rates of witnesses of overdoses making such calls are very low, between 10 and 30 percent.<sup>5</sup> The protections offered by strong GSLs could substantially increase calls to EMS, which are important opportunities to not only save lives from a specific overdose event, but also to offer addiction treatment services with brief interventions in the emergency department. Individuals at risk for overdose and potential witnesses must be made aware of the protections afforded by strong GSLs.

Furthermore, first responders (paramedics and EMS) and law enforcement officers (LEOs) may lack clear understanding of GSLs,<sup>6</sup> even though they are required to implement them consistent with their state's laws. LEOs wield great discretion when managing an overdose scene, but can be misinformed about the extent of the protections offered by their GSL.<sup>4,7</sup> Therefore, it is essential to implement public awareness campaigns that target these groups and the general public to create more unambiguous understanding of GSL's protections.

Complicating the landscape, some states have intensified prosecutions under DIH/DDRD laws in response to the drug overdose crisis<sup>3,8</sup> and are imposing severe penalties for cases of overdose, particularly involving fentanyl. More than half of U.S. states and territories have such laws on the books,<sup>9,10</sup> which are often disproportionately applied to Black and Hispanic/Latino individuals.<sup>12</sup> DIH/DDRD laws can establish a charge of manslaughter or murder for individuals who furnish or deliver substances to someone else who dies as a result<sup>3</sup> or directly authorize the prosecution of substance-related overdose deaths as homicides.<sup>4</sup> The traditional notion of justice, or the *mens rea* requirement of criminal intent toward a resulting death, is absent from such laws, which can be applied liberally.<sup>8,11</sup> It is not uncommon for individuals to overdose in the presence of another who delivered them substances – often a person who was also using substances.<sup>10</sup>

Relatedly, under section 841 of the Controlled Substances Act (CSA), individuals who deliver (manufacture or distribute) a Schedule I or II substance that results in death or serious bodily injury face a mandatory minimum of 20 years in prison.<sup>13</sup> Such federal charges do not require criminal intent to cause death or serious bodily injury and causation is subject to judicial interpretation.<sup>14</sup>

## Recommendations

1. As a guiding principle, Good Samaritan laws (GSLs) should be strengthened to encourage witnesses to call for emergency medical services, rather than be forced to weigh risks and benefits while making a lifesaving decision during an overdose crisis. The federal government, states, and territories should enact or amend GSLs in a manner that:
  - a. Defines the group of individuals who may benefit from their protection to include those who lack criminal intent to cause death or serious bodily injury and who (i) in good faith, call for emergency medical assistance for an individual experiencing a suspected overdose, (ii) render aid at the location of the suspected overdose, or (iii) experience a suspected overdose.
  - b. Establishes protections against arrest and prosecution for a broad range of drug-related crimes, including drug possession for personal use, drug possession with the

intent to distribute, possession of drug paraphernalia, underage alcohol consumption, and crimes related to DIH/DDRD, as well as violations of protective orders, probation, or parole. In addition, immunity should be provided directly, not as deferred prosecution, or conditioned on completing treatment when an individual's sole reason for interacting with law enforcement is an overdose event.

2. Governments should provide adequate resources for awareness and implementation of GSLs, with steps taken to ensure GSLs are more unambiguously understood, particularly among individuals who may request assistance for an overdose, first responders (paramedics and EMS), and LEOs.
3. Governments should replace routine LEO attendance to overdose calls with a well-resourced emergency medical and behavioral health team response system.<sup>4</sup> As an example, such teams could include addiction and mental health professionals, including peer support specialists with lived experience of substance use and recovery, who provide guidance and support, connect individuals who have experienced overdoses to care, and assist such individuals in navigating the system of care following the overdose.

**Adopted by the ASAM Board of Directors on October 21, 2023.**

© Copyright 2023. American Society of Addiction Medicine, Inc. All rights reserved. Permission to make digital or hard copies of this work for personal or classroom use is granted without fee provided that copies are not made or distributed for commercial, advertising or promotional purposes, and that copies bear this notice and the full citation on the first page. Republication, systematic reproduction, posting in electronic form on servers, redistribution to lists, or other uses of this material require prior specific written permission or license from the Society. ASAM Public Policy Statements normally may be referenced in their entirety only without editing or paraphrasing, and with proper attribution to the society. Excerpting any statement for any purpose requires specific written permission from the Society. Public Policy statements of ASAM are revised on a regular basis; therefore, those wishing to utilize this document must ensure that it is the most current position of ASAM on the topic addressed.

---

**American Society of Addiction Medicine**  
11400 Rockville Pike, Suite 200, Rockville, MD 20852  
Phone: 301.656.3920 | Fax: 301.656.3815

---

[www.ASAM.org](http://www.ASAM.org)

## References

1. Office of Justice Programs, U.S. Department of Justice. Mark Kleiman Comments on Drugs, Violence, and Putting Cartels Out of Business. Published April 2012. Accessed September 6, 2023. <https://www.ojp.gov/library/publications/mark-kleiman-comments-drugs-violence-and-putting-cartels-out-of-business>
2. Hamilton L, Davis CS, Kravitz-Wirtz N, Ponicki W, Cerdá M. Good Samaritan laws and overdose mortality in the United States in the fentanyl era. *Int J Drug Policy*. 2021;97:103294. doi:10.1016/j.drugpo.2021.103294
3. Legislative Analysis and Public Policy Association. Good Samaritan Fatal Overdose Prevention and Drug-induced Homicide: Summary of State Laws. LAPP. Published August 10, 2023. Accessed September 1, 2023. <https://legislativeanalysis.org/wp-content/uploads/2023/08/Good-Sam-Fatal-Overdose-Prev-and-Drug-Induced-Homicide-Summary-of-State-Laws.pdf>
4. Pamplin JR, Rouhani S, Davis CS, King C, Townsend TN. Persistent Criminalization and Structural Racism in US Drug Policy: The Case of Overdose Good Samaritan Laws. *Am J Public Health*. 2023;113(S1):S43-S48. doi:10.2105/AJPH.2022.307037
5. Smart R, Davis CS. Reducing Opioid Overdose Deaths by Expanding Naloxone Distribution and Addressing Structural Barriers to Care. *Am J Public Health*. 2021;111(8):1382-1384. doi:10.2105/AJPH.2021.306376
6. Banta-Green CJ, Beletsky L, Schoeppe JA, Coffin PO, Kuszler PC. Police Officers' and Paramedics' Experiences with Overdose and Their Knowledge and Opinions of Washington State's Drug Overdose–Naloxone–Good Samaritan Law. *J Urban Health*. 2013;90(6):1102-1111. doi:10.1007/s11524-013-9814-y
7. Koester S, Mueller SR, Raville L, Langedegger S, Binswanger IA. Why are some people who have received overdose education and naloxone reticent to call Emergency Medical Services in the event of overdose? *Int J Drug Policy*. 2017;48:115-124. doi:10.1016/j.drugpo.2017.06.008
8. Fair and Just Prosecution. Drug-Induced Homicide Prosecutions. Published online July 2022. <https://fairandjustprosecution.org/wp-content/uploads/2022/07/FJP-Drug-Induced-Homicide-Brief.pdf>
9. Hoffman J. Harsh New Fentanyl Laws Ignite Debate Over How to Combat Overdose Crisis. *The New York Times*. <https://www.nytimes.com/2023/06/21/health/fentanyl-overdose-crisis.html>. Published June 21, 2023. Accessed August 29, 2023.
10. Center for Health Policy and Law. Drug Induced Homicide as a Response to Overdose | Health in Justice Action Lab. Drug-Induced Homicide. Accessed September 3, 2023. <https://www.healthinjustice.org/drug-induced-homicide>
11. Beavers A. Drug-Induced Homicide: A Comprehensive Statutory Proposal. Published online January 3, 2023. doi:10.2139/ssrn.4358388

12. Beletsky L. America's Favorite Antidote: Drug-Induced Homicide in the Age of the Overdose Crisis. *SSRN Electron J.* Published online 2018. doi:10.2139/ssrn.3185180
13. U.S. Sentencing Commission, Office of the General Counsel. Primer on Drug Offenses. Published online 2021.  
[https://www.ussc.gov/sites/default/files/pdf/training/primers/2021\\_Primer\\_Drugs.pdf](https://www.ussc.gov/sites/default/files/pdf/training/primers/2021_Primer_Drugs.pdf)
14. Weinstein AD. When Cause In-Fact Is, In Fact, Not the Solution: How Burrage Failed to Narrow the Scope of the Controlled Substances Act's "Death Results" Sentencing Enhancement. *Columbia Hum Rights Law Rev.* Published online October 14, 2019.  
<https://hrlr.law.columbia.edu/hrlr-online/when-cause-in-fact-is-in-fact-not-the-solution-how-burrage-failed-to-narrow-the-scope-of-the-controlled-substances-acts-death-results-sentencing-enhancement/>