



Intelligence Information Report

(U) PREPARED BY New Mexico HIDTA Investigative Support Center

23 August 2022

NMISC IIR - 2022 - 003

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(U) What is New Mexico's 911 Good Samaritan Law?

(U) SCOPE

(U) This informational report is intended to provide information to law enforcement and prevention practitioners about New Mexico's 911 Good Samaritan Law. This law was designed to encourage people to summon emergency assistance if they experience or witness a drug overdose.

(U) New Mexico is currently experiencing unprecedented overdoses throughout the state. Unintentional drug overdose is a leading cause of preventable death in the United States. According to law enforcement, overdose bystanders might not call for medical assistance out of fear of being arrested. Law enforcement and prevention practitioners can play an important role in maximizing awareness of this law and educate relevant stakeholders on the strengths and limitations.

(U) In 2007, New Mexico became the first state to pass a 911 Good Samaritan law. The law protects people who seek help for a friend or family member who is experiencing a drug overdose and call 911. The law was amended in 2019, which expanded limited immunity for those who seek medical assistance for someone experiencing a drug-related overdose to include alcohol overdose, and provided an exemption from civil forfeiture for the property of a person who, in good faith, seeks medical assistance for someone experiencing an alcohol or drug-related overdose, and provided similar protections for the person who is experiencing an overdose who seeks medical assistance.

(U) OVERVIEW

(U) NEW MEXICO 911 GOOD SAMARITAN LAW (State Statute)

(U) NM Statute §30-31-27.1. Overdose prevention; limited immunity.

(U) A person who, in good faith, seeks medical assistance for someone experiencing an alcohol or drug-related overdose shall not be arrested, charged, prosecuted, or otherwise penalized, nor shall the property of the person be subject to civil forfeiture, for violating any of the following if the evidence for the alleged violation was obtained as a result of the need for seeking medical assistance:

- (1) the provisions of Section §30-31-23¹ NMSA 1978 or Subsection A of Section §30-31-25.1 NMSA 1978²;
- (2) a restraining order; or
- (3) the conditions of probation or parole.

(U) A person who experiences an alcohol or drug-related overdose and is in need of medical assistance shall not be arrested, charged, prosecuted or otherwise penalized, nor shall the property of the person be subject to civil forfeiture, for violating any of the following if the evidence for the alleged violation was obtained as a result of the overdose and the need for seeking medical assistance:

- (1) the provisions of Section §30-31-23 NMSA 1978¹ or Subsection A of Section §30-31-25.1 NMSA 1978²;
- (2) a restraining order; or
- (3) the conditions of probation or parole.

(U) The act of seeking medical assistance for someone who is experiencing an alcohol or drug-related overdose may be used as a mitigating factor in a criminal prosecution pursuant to the Controlled Substances Act for which immunity is not provided pursuant to this section.

(U) For the purposes of this section “seeking medical assistance” means:

- (1) reporting an alcohol or drug-related overdose or other medical emergency to law enforcement, the 911 system or another emergency dispatch system, a poison control center or a health care provider; or
- (2) assisting an individual who is reporting an alcohol or drug related overdose or providing care to an individual who is experiencing an alcohol or drug-related

¹ §Section 30-31-23: Controlled Substances; possession prohibited.

² §Section 30-31-25.1: Possession, delivery or manufacture of drug paraphernalia prohibited; exceptions.

overdose or other medical emergency while awaiting the arrival of a health care provider.

(U) WHY HAVE A GOOD SAMARITAN LAW?

(U) In an opioid-related emergency, bystanders should, but often times don't call for emergency assistance. Emergency assistance is recommended even when the opioid antidote naloxone is on hand. The fear of arrest or being charged with a crime keep many from involving law enforcement or medical personnel at the time of an overdose. This includes individuals who use opioids themselves, who may fear the unwanted attention, stigma, and negative consequences that could accompany a call, or have had previous negative experiences with law enforcement officers or emergency medical personnel. Overdose Good Samaritan laws are designed to address these fears by protecting overdose victims and those who call for help from some of these potential consequences.

(U) FACTORS THAT MAY LIMIT THE USE OF THE GOOD SAMARITAN LAW

(U) The following obstacles can prevent the law from being fully utilized by the public or criminal justice professionals (e.g., law enforcement, prosecutors, etc.).

(U) Lack of awareness

(U) Individuals who engage in the non-medical use of prescription drugs, especially young people, are less likely to be aware of Good Samaritan laws compared with intravenous drug users.

- (U) Studies suggest that young adults, age 18 to 32, who engage in non-medical prescription drug use, but who do not have a history of heroin use, are less likely to be aware of their state's Good Samaritan law.³ Furthermore, they tend to see themselves as distinct from individuals who inject heroin, and thus are unlikely to interact with traditional harm reduction services that provide education on overdose prevention and Good Samaritan laws.⁴
- (U) A study found that two thirds of the 22 clients interviewed in a needle exchange in Baltimore did not know there was a Good Samaritan law.⁵

³ Koester, S., Mueller, S. R., Raville, L., Langegger, S., & Binswanger, I. A. (2017). Why are some people who have received overdose education and naloxone reticent to call Emergency Medical Services in the event of overdose? *International Journal of Drug Policy*.

⁴ Frank, D., Mateu-Gelabert, P., Guarino, H., Bennett, A., Wendel, T., Jessell, L., & Teper, A. (2015). High risk and little knowledge: overdose experiences and knowledge among young adult nonmedical prescription opioid users. *International Journal of Drug Policy*, 26(1), 84-91.

⁵ Latimore, Amanda D., Bergstein, Rachel S., (Dec. 2017), "Caught with a body" yet protected by law; National Library of Medicine.

(U) Law enforcement officers may not be fully aware of the state's Good Samaritan law or understand the extent of the protections that the law offers.

- (U) In a survey of Seattle police officers one year after the passage of Washington State's Good Samaritan law, only 16 percent had heard of the law, only seven percent could correctly identify the law's protections, and only one percent felt they had received clear guidance on the law from the police department.⁶

(U) Lack of trust

(U) Even if a person is aware of the Good Samaritan law, many individuals at risk for encountering an overdose often report a strong distrust of law enforcement and are skeptical that the law will protect them. These are likely to be individuals with criminal histories, outstanding warrants, or on probation.⁷ These individuals, particularly those who inject drugs, are more likely to delay or not call for help during an overdose.

- (U) Studies suggest these individuals may hesitate to call for help even if they know about Good Samaritan laws. They may fear arrest, withdrawal symptoms in jail, getting others in trouble, or hold the belief that they do not need professional help if they have naloxone on hand.⁴

(U) THE ROLE OF PREVENTION PRACTITIONERS

(U) There are many opportunities for prevention practitioners to increase awareness and applications of the state Good Samaritan law by:

(U) Educate drug users who are likely to overdose or encounter an overdose

(U) Prevention practitioners can provide informational materials (e.g., posters, pamphlet's, etc.) and trainings at needle exchanges, methadone clinics, drug treatment facilities, and jail/correctional facilities as well as public service announcements (PSAs) and advertisements.

(U) Educate individuals who engage in non-medical use of prescription drugs

(U) This population will not typically receive services at traditional harm-reduction programs. Harm reduction campaigns have used flyers, online PSAs, and social media to discourage prescription drug abuse and share information about Good Samaritan laws.

⁶ Banta-Green, C. J., Beletsky, L., Schoeppe, J. A., Coffin, P. O., & Kuszler, P. C. (2013). Police Officers' and Paramedics' Experiences with Overdose and Their Knowledge and Opinions of Washington State's Drug Overdose–Naloxone–Good Samaritan Law. *Journal of Urban Health*, 90(6), 1102-1111. doi: 10.1007/s11524-013-9814-y

⁷ Koester, S., Mueller, S. R., Raville, L., Langedger, S., & Binswanger, I. A. (2017). Why are some people who have received overdose education and naloxone reticent to call Emergency Medical Services in the event of overdose? *International Journal of Drug Policy*.

(U) Educate the general public

(U) Prevention practitioners can implement broad awareness campaigns. PSAs can be done through the use of television, social media, billboards, posters, flyers, advertisements on transportation hubs/vehicles, and other public venues.

(U) Educating other criminal justice professionals

(U) Prevention practitioners can educate professionals who have the authority to charge, prosecute, and provide legal representation to individuals with drug-related crimes (e.g., prosecutors, magistrates, court-appointed defense attorneys, etc.). This can be accomplished by giving presentations at conferences or in-service trainings and distributing communication materials to the district attorney or public defenders' offices.

(U) Educating law enforcement

(U) Prevention practitioners have the opportunity to clarify the specific protections offered by the law and provide health and safety benefits of upholding the immunity protections (i.e., saving lives and improving trust in law enforcement). This can be accomplished through educational videos or in-person department trainings.

(U) CONCLUSION

(U) The chance of surviving an overdose, like that of surviving a heart attack, depends on how fast one receives medical assistance. Good Samaritan laws reduce the barriers to calling 911, which has the potential to save victims of overdose from severe injury or death.

(U) Protection from state-level prosecution may not be enough to ensure that people will call 911. Many people who use drugs may not understand the difference between arrest and prosecution. People may also fear consequences beyond a possession charge such as probation and parole violations, immigration and child welfare consequences, outstanding warrants, trespassing, drug trafficking, or even drug induced homicide charges can be barriers to calling 911.

(U) Good Samaritan laws require education efforts from treatment and prevention personnel and law enforcement to ensure that people are aware of the law and what it does. While New Mexico has had a Good Samaritan law for many years, studies show that there is a need for continued training, education, and collaboration with the public, prevention practitioners, and law enforcement. By properly educating the masses about the protections Good Samaritan laws offer, people will be more encouraged to call for medical attention in the event of an overdose.

<u>NEW MEXICO</u>	
Statute(s) and initial effective date(s)	N.M. STAT. ANN. § 30-31-27.1 (West 2022) (eff. June 15, 2007).
Substantive amendments to law(s)	July 1, 2019 – amendment added the following provisions: <ul style="list-style-type: none"> • Protections from being arrested, charged, prosecuted, or otherwise penalized for the possession of drug paraphernalia; • Protections from penalties for violations of restraining orders or the conditions of probation or parole; and • Made the act of seeking medical assistance for someone who is experiencing an alcohol or drug-related overdose a mitigating factor in a criminal prosecution.
Individual(s) eligible for GS protection	<ul style="list-style-type: none"> • Person who, in good faith, seeks medical assistance for someone experiencing an alcohol or drug-related overdose. • Person who experiences an alcohol or drug related overdose and is in need of medical assistance. <p>The law defines the phrase “seeking medical assistance.”</p>
Protection as to controlled substance possession crimes	An eligible person will not be arrested, charged, prosecuted, or otherwise penalized for the offense of possession of a controlled substance (N.M. STAT. ANN. § 30-31-23 (West 2022)).
Protection as to drug paraphernalia crimes	An eligible person will not be arrested, charged, prosecuted, or otherwise penalized for the offense of possession of drug paraphernalia (N.M. STAT. ANN. § 30-31-25.1(A) (West 2022)).
Protection as to other crimes/violations	<ul style="list-style-type: none"> • An eligible person will not be arrested, charged, prosecuted, or otherwise penalized for violations of: (1) restraining orders; or (2) conditions of probation or parole. • An eligible person’s property will not be subject to civil forfeiture.
Requirement(s) for the protection to apply	Evidence for the alleged violation must have been obtained because of the need for seeking medical assistance.
Exception(s) to protection	None.
Reporting overdose a mitigating factor in sentencing	Yes.
Offenses subject to mitigation	Criminal prosecution pursuant to the Controlled Substances Act for which immunity is not provided.
Circumstance(s) when mitigation applies	When a person seeks medical assistance for someone who is experiencing an alcohol or drug-related overdose.
Other provisions of note	None.