

The Safe Harbor Bill: History & Intent

SENATE BILL 289

AN ACT PROVIDING PREGNANT WOMEN SEEKING ASSISTANCE WITH A SUBSTANCE USE DISORDER WITH SAFE HARBOR FROM PROSECUTION; AMENDING SECTION 50-32-609, MCA; AND PROVIDING AN EFFECTIVE DATE.

Note: The Bill does not protect those who possess an amount of drugs beyond personal use.

The Bill does not supersede state mandatory reporter laws that dictate health care providers, among others, must report suspected child abuse or neglect to the state health department.

- Senate Bill 289; Passed May 2, 2019
- Primary Sponsor: Sen. Diane Sands
- Aims to protect pregnant women seeking treatment for SUD.
- Objectives:
 - ✓ increase prenatal care by removing the fear of being arrested or losing their child(ren)
 - ✓ reduce the number of children born with neonatal abstinence syndrome (NAS).

House Bill 309: would create a grant program for health dept's to treat prenatal SUD.

- Sponsor: Rep. Kim Dudik (Msla.)
- Died in standing committee, April 25, 2019

The Safe Harbor Bill Language:

Montana Code Annotated
2019

TITLE 50. HEALTH AND
SAFETY. CHAPTER 32.
CONTROLLED SUBSTANCES

Part 6. Help Save Lives
From Overdose Act

Good Samaritan
Protections

50-32-609. Good Samaritan 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 pregnant woman seeking or receiving evaluation, treatment, or support services for a substance use disorder.

(3) A person's pretrial release, probation, furlough, supervised release, or parole may not be revoked based on an incident for which the person would be immune from arrest, charge, or prosecution under this section.

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

(5) This section may not be construed to:

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

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

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

History: En. Sec. 9, Ch. 253, L. 2017; amd. Sec. 1, Ch. 265, L. 2019.