

245 connection with the practice of a traditional Indian religion.

246 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
247 defense under this Subsection (12) as soon as practicable, but not later than 10 days prior to
248 trial.

249 (ii) The notice shall include the specific claims of the affirmative defense.

250 (iii) The court may waive the notice requirement in the interest of justice for good
251 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

252 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
253 a preponderance of the evidence. If the defense is established, it is a complete defense to the
254 charges.

255 (13) (a) It is an affirmative defense that the person produced, possessed, or
256 administered a controlled substance listed in Section 58-37-4.2 if the person:

257 (i) was engaged in medical research; and

258 (ii) was a holder of a valid license to possess controlled substances under Section
259 58-37-6.

260 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
261 a controlled substance listed in Section 58-37-4.2.

262 (14) It is an affirmative defense that the person possessed, in the person's body, a
263 controlled substance listed in Section 58-37-4.2 if:

264 (a) the person was the subject of medical research conducted by a holder of a valid
265 license to possess controlled substances under Section 58-37-6; and

266 (b) the substance was administered to the person by the medical researcher.

267 (15) (a) It is an affirmative defense to an allegation of the commission of an offense
268 listed in Subsection (15)(b) that the person:

269 (i) reasonably believes that the person or another person is experiencing an overdose
270 event due to the ingestion ~~H→~~ , injection, inhalation, or other introduction into the
270a human body ←H of a controlled substance or other substance;

271 (ii) reports in good faith the overdose event to a medical provider, an emergency
272 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911
273 emergency call system, or an emergency dispatch system, or the person is the subject of a
274 report made under this Subsection (15);

275 (iii) provides in the report under Subsection (15)(a)(ii) a functional description of the

276 actual location of the overdose event that facilitates responding to the person experiencing the
 277 overdose event;

278 (iv) remains at the location of the person experiencing the overdose event until a
 279 responding law enforcement officer or emergency medical service provider arrives, or remains
 280 at the medical care facility where the person experiencing an overdose event is located until a
 281 responding law enforcement officer arrives;

282 (v) ~~H→~~ [provides personal identification to and] ~~←H~~ cooperates with the
 282a responding medical
 283 provider, emergency medical service provider, and law enforcement officer, including
 284 providing information regarding the person experiencing the overdose event and any
 285 substances the person may have ~~H→~~ [ingested] injected, inhaled, or otherwise introduced into
 285a the person's body ~~←H~~ ; and

286 (vi) is alleged to have committed the offense in the same course of events from which
 287 the reported overdose arose.

288 (b) The offenses referred to in Subsection (15)(a) are:

289 (i) the possession or use of less than 16 ounces of marijuana;

290 (ii) the possession or use of a scheduled or listed controlled substance other than
 291 marijuana; and

292 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
 293 Imitation Controlled Substances Act.

294 (c) As used in this Subsection (15) and in Section 76-3-203.11, "good faith" does not
 295 include seeking medical assistance under this section during the course of a law enforcement
 296 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

297 ~~[(15)]~~ (16) If any provision of this chapter, or the application of any provision to any
 298 person or circumstances, is held invalid, the remainder of this chapter shall be given effect
 299 without the invalid provision or application.

300 ~~[(16)]~~ (17) A legislative body of a political subdivision may not enact an ordinance that
 301 is less restrictive than any provision of this chapter.

302 Section 2. Section **76-3-203.11** is enacted to read:

303 **76-3-203.11. Reporting an overdose -- Mitigating factor.**

304 It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah
 305 Controlled Substances Act, that the person:

306 (1) reasonably believes that the person or another person is experiencing an overdose

307 event due to the ingestion ~~it~~, **injection, inhalation, or other introduction into the**
 307a **human body** ~~it~~ of a controlled substance or other substance;

308 (2) reports in good faith the overdose event to a medical provider, an emergency
 309 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911
 310 emergency call system, or an emergency dispatch system, or the person is the subject of a
 311 report made under this section;

312 (3) provides in the report under Subsection (2) a functional description of the location
 313 of the actual overdose event that facilitates responding to the person experiencing the overdose
 314 event;

315 (4) remains at the location of the person experiencing the overdose event until a
 316 responding law enforcement officer or emergency medical service provider arrives, or remains
 317 at the medical care facility where the person experiencing an overdose event is located until a
 318 responding law enforcement officer arrives;

319 (5) ~~it~~ **[provides personal identification to and]** ~~it~~ cooperates with the
 319a responding medical
 320 provider, emergency medical service provider, and law enforcement officer, including
 321 providing information regarding the person experiencing the overdose event and any
 322 substances the person may have ~~it~~ **[ingested] injected, inhaled, or otherwise introduced into**
 322a **the person's body** ~~it~~; and

323 (6) committed the offense in the same course of events from which the reported
 324 overdose arose.

325 Section 3. **Effective date.**

326 If approved by two-thirds of all the members elected to each house, this bill takes effect
 327 upon approval by the governor, or the day following the constitutional time limit of Utah
 328 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
 329 the date of veto override.

Legislative Review Note
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Office of Legislative Research and General Counsel