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H.B. 295, Overdose Amendments (Substitute 1)

This document provides a summary of [H.B. 295 Overdose Amendments \(substitute 1\)](#), which amends who qualifies for an affirmative defense or mitigating factor when reporting a drug overdose. H.B. 295 also allows a prosecutor to move the court to dismiss certain first-time drug-related offenses, if the charged individual qualifies for the affirmative defense and completes any recommended substance abuse treatment.

Background

In 2014, [H.B. 11 Overdosing Reporting Amendments](#) created a mitigating factor and an affirmative defense for an individual who:

- reported a drug overdose to a medical service provider, law enforcement officer, or an emergency call or dispatch system;
- provided the location of the overdose;
- remained at the scene of the overdose;
- cooperated with the responding providers or officers;
- provided information on the person experiencing the overdose; and
- allegedly committed the offense at the same time the overdose occurred.

The affirmative defense and mitigating factor created in H.B. 11 were amended in 2020 through [H.B. 32 Overdose Reporting Requirements](#). H.B. 32 extended the affirmative defense and mitigating factor to **bystanders who remain and assist the person experiencing an overdose**.

H.B. 295 Amendments

H.B. 295 (substitute 1) clarifies that **the affirmative defense and mitigating factor** in Utah Code Sections [58-37-8](#) and [76-3-203.11](#) also **cover the overdose victim** even when the overdose victim is not the individual who reports the overdose.

H.B. 295 (substitute 1) also adds that a prosecutor may move the court to dismiss a substance use or possession charge if:

- the individual qualifies for the affirmative defense;
- it is the individual's **first time** being charged with the offense; and
- after the offense, but before the day the case is adjudicated, the individual provides proof that they completed a substance abuse evaluation and any recommended treatment.

Finally, H.B. 295 (substitute 1) clarifies that only certain possession or use offenses are eligible for the affirmative defense:

Drug offenses that qualify for an affirmative defense:

- 1) Possession or use of less than 16 ounces of marijuana (no intent to distribute).
- 2) Possession or use of a scheduled or listed controlled substance other than marijuana (no intent to distribute).
- 3) Any violation in [Chapter 37a Utah Drug Paraphernalia Act](#) or [Chapter 37b Imitation Controlled Substances Act](#).

Drug offenses that qualify for a mitigating factor:

- 1) Offenses under [Title 58, Chapter 37 Utah Controlled Substances Act](#)

H.B. 295 Coordinating Clause and Immediate Effective Date

H.B. 295 (substitute 1) provides an immediate effective date and includes a coordinating clause with H.B. 301, Drug Recodification.

If both H.B. 301 and H.B. 295 pass and become law, the coordinating clause ensures that changes made in H.B. 295 will be reflected in Utah code.

Utah Drug Overdose Data

According to the Utah Department of Health and Human Services, **10 Utahns die every week from a drug overdose.**¹

In **2024 alone, 591 Utah residents died from a drug overdose.**² This is a 2.5% decrease from 2023 where 606 Utah residents died.³ While Utah saw a decrease in **prescription opioid** deaths between 2018-2022⁴ (See Chart 1); this data may not include overdose deaths from drugs that were obtained illicitly. In 2024, 27% of overdose deaths involved at least one prescription opioid, while 43% were fentanyl related.⁵ Between 2019-2022, data showed that males were more likely to overdose than females.⁶ (See chart 2)

“Several years ago, most drug overdose deaths involved prescription drugs...Now, most people die from drug overdoses that involve fentanyl or methamphetamine combined with other substances.”

Conlon, Danielle, “10 years of data show drug overdoses remain a significant health threat in Utah.” DHHS- Office of the Medical Examiner quote, January 16, 2025. [10 years of data show drug overdoses remain a significant health threat in Utah - Department of Health and Human Services](#)

