HOUSE BILL NO. 50

INTRODUCED BY R. MARSHALL

BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: “AN ACT PROVIDING PROTECTIONS TO PARENTS AND PREGNANT WOMEN WITH SUBSTANCE USE DISORDER; REVISING THE HELP SAVE LIVES FROM OVERDOSE ACT; AND AMENDING SECTION 50-32-609, MCA.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-32-609, MCA, is amended to read:

"**50-32-609. Good Samaritan and parental 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:

(a) evaluation, treatment, or support services for a substance use disorder; or

(b) prenatal health care.

(3) The provisions of 45-5-601(2)(a) do not apply to a person reporting a crime under 45-5-502 or 45-5-503.

(4) 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.

(5) 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.

(6) A parent's positive drug test may not be the sole factor used to:

(a) begin a child abuse and neglect investigation under Title 41, chapter 3, part 2;

(b) place a child in protective care pursuant to Title 41, chapter 3, part 3;

(c) initiate abuse and neglect proceedings as provided for in Title 41, chapter 3, part 4; or

(d) terminate parental rights as provided for in Title 41, chapter 3, part 6.

~~(6)~~(7) 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."

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