



State Actions in Response to Increased Opioid Use

In 2015 nearly every state enacted legislation addressing the abuse of opioids, including heroin and prescription drugs. Policymakers have sought solutions that try to curb abuse by deterring distribution, increasing treatment and diversion opportunities and expanding immunity programs to save lives.

Access to Naloxone and Immunity

Opioid overdoses can be reversed with the timely administration of an opioid antagonist, a medication more commonly called naloxone. Naloxone is a “rescue drug” that has been approved by the FDA and can be administered by injection or via nasal spray. The drug has no abuse potential and counteracts the life-threatening effects of an overdose allowing the victim to breathe normally after it has been administered. However, naloxone is a temporary drug that wears off in 20 to 90 minutes, making it essential to seek additional medical assistance after it has been administered.

Often family and friends are in the best position to administer this lifesaving drug to their loved ones who overdose because they are able to react more quickly. However, access to naloxone was limited until recent actions were taken by state legislatures to reduce restrictions. Providing medication to anyone other than the at-risk drug user (called third party prescription) was previously prohibited and laws required a doctor-patient relationship to be established prior to direct prescription. Medical professionals have been hesitant to prescribe naloxone due to concerns about criminal, civil or professional liability.

New Mexico became the first state to enact legislation to increase access to Naloxone in 2001. Forty-five states now have laws providing immunity to medical professionals who prescribe or dispense naloxone or

persons who administer naloxone. The majority of these laws were passed within the last five years and promote the use of naloxone in addition to training and education on recognizing and preventing overdoses.

By 2014 it was reported that more than 150,000 “laypeople” had received naloxone training and rescue kits resulting in more than 26,000 reported overdose reversals. Legislation and regulation has also greatly increased access to naloxone by emergency medical



personnel and law enforcement.

Immunity for Calling 911 or Seeking Emergency Medical Assistance – Good Samaritan Laws

To encourage people to seek medical attention for an overdose or for follow-up care after naloxone has been administered, 34 states and the District of Columbia have enacted some form of a Good Samaritan or 911 drug immunity law. These laws generally provide immunity from supervision violations and low level drug possession and use offenses when a person who is either experiencing or observing an opiate-related overdose calls 911 for assistance or otherwise seeks medical attention for themselves or another.

For immunity to apply, these laws often require a caller to have a reasonable belief that someone is experiencing an overdose emergency and is reporting that belief in good faith. “Good faith” often excludes seeking help during the course of the execution of an arrest or search warrant. Other requirements frequently include remaining on scene until help arrives and cooperating with emergency personnel when they arrive. Some laws also specify that immunity for covered offenses is not grounds for suppression of evidence of other crimes.

The scope of what offenses and violations are covered by immunity provisions varies by state. Some states have opted for more restricted immunity while states such as Vermont provide immunity from all controlled substance offenses.

The point at which immunity

applies also varies. Some laws provide immunity from arrest for certain offenses in overdose situations while others provide immunity from charges, immunity from prosecution, or provide immunity via an affirmative defense to prosecution.

Pretrial Drug Diversion

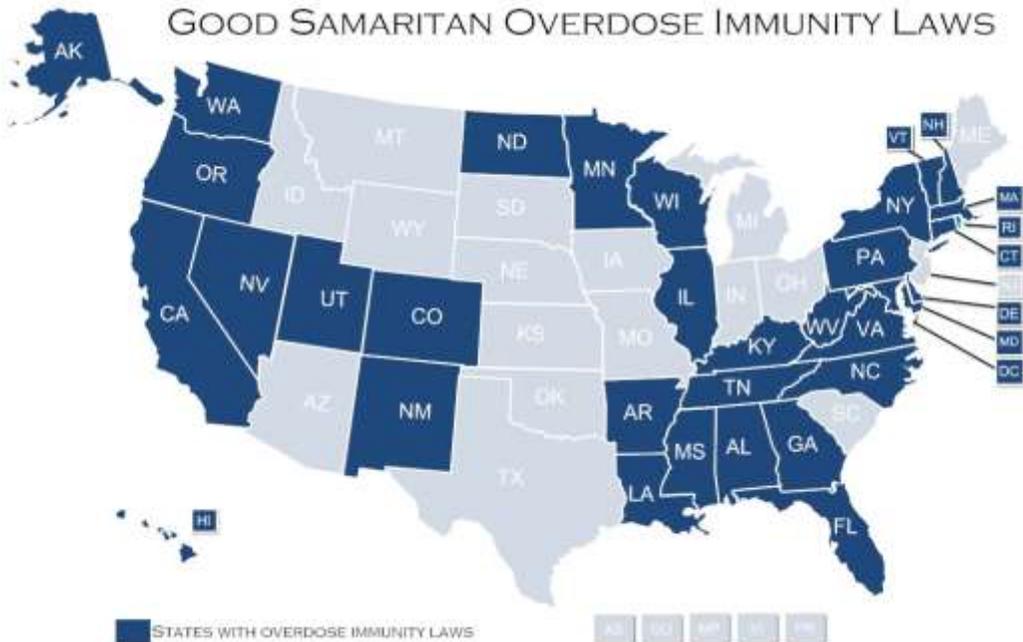
In addition to putting immunity provisions in place, states have also enacted laws that address the treatment needs of defendants with substance use disorders. At least 43 states statutorily provide pretrial diversion alternatives to traditional criminal justice proceedings for persons charged with criminal offenses.

Pretrial diversion is designed to address factors that contribute to criminal behavior of the accused, called criminogenic needs. Laws require that participation in diversion is voluntary and that the accused has access to counsel prior to making the decision to participate. Individuals are diverted prior to conviction and a guilty plea may or may not be required. Successful completion of the program results in a dismissal of charges.

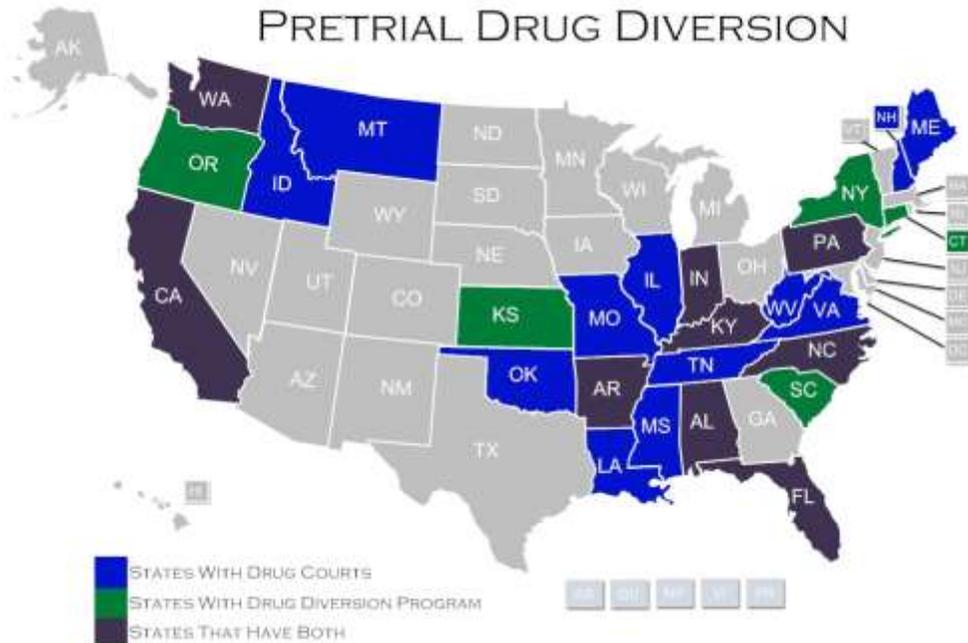
Twenty six states have diversion alternatives that specifically address substance use. These programs or treatment courts are available to people charged with drug or alcohol related offenses as well as defendants identified as having substance use or addiction needs.

For additional information please contact Amber Widgery at amber.widgery@ncsl.org or visit www.ncsl.org/forumresources15

GOOD SAMARITAN OVERDOSE IMMUNITY LAWS



PRETRIAL DRUG DIVERSION



*States featured on this map may have local drug diversion options that have not been codified statewide. The majority of states also have diversion programs that address criminogenic needs generally instead of targeting specific crimes or offenders.