

International Association of Chiefs of Police Annual Conference  
October 27, 2015

# **Naloxone Access and Good Samaritan Laws Legislative Overview**

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(NAMSDL)



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# WHAT IS NAMSDL?

- Successor to the President's Commission on Model State Drug Laws
- Not-for-profit, 501(c)(3) created in 1993
- Funded by U.S. Congressional appropriations since 1995
- Provides non-partisan legislative and policy services

# LEGISLATIVE OVERVIEW

## Federal Bills

- As of October 15, 2015
  - Sixty-two drug-related bills introduced in U.S. Congress
    - House: 35
    - Senate: 27
  - Twenty-six address opioids and prescription drugs
    - Nine specifically address the use of naloxone
    - Two address law enforcement's response

# LEGISLATIVE OVERVIEW

## State Bills

As of September 1, 2015

- Thirty-seven states introduced 110 bills related to naloxone or Good Samaritan overdose protection
- Thirty-five of those 110 were enacted

# LEGISLATIVE OVERVIEW

## State Bills – Naloxone Access

As of January 1, 2015

- Thirty states plus the District of Columbia had a naloxone access statute

As of September 1, 2015

- Ten states passed new naloxone access legislation
- Fifteen states passed one or more amendments to existing legislation
- Total of 40 states plus the District of Columbia have some form of naloxone access legislation

# LEGISLATIVE OVERVIEW

## State Bills – Naloxone Access – Key Components

- Definitions
  - First responder – not only law enforcement
- Direct or third-party prescription
- Good faith or reasonable care
- Education or training
- Immunity from liability
- Good Samaritan Protection
- Referral to Treatment
- Evaluation
- Insurance Coverage
- Funding

# LEGISLATIVE OVERVIEW

## State Bills – Naloxone Access – Key Components – Immunity

Immunity from liability for law enforcement

- Professional, civil, and criminal
  - Any decision made, action taken, and injury that results from an act or omission by a peace officer who furnishes or administers naloxone or any opioid antagonist
  - Act with *reasonable care* and in *good faith*
  - Not act with wanton or willful neglect.
- Twenty-three of the jurisdictions provide immunity to LE

# LEGISLATIVE OVERVIEW

## State Bills – Naloxone Access – Key Components – Training

Training for law enforcement regarding

- The identification of a person suffering from an opioid-related drug overdose
- The use and administration of naloxone or other opioid antagonist
- The procedures for storage, transport, and security of the opioid antagonist



# LEGISLATIVE OVERVIEW

## State Bills – Naloxone Access – Key Components – 3<sup>rd</sup> Party

Prescribe and dispense directly or through a standing order to a third party

- A person at risk of experiencing an opioid-related drug overdose
- A law enforcement officer or agency
- A harm reduction organization
- A family member or friend of a person at risk of experiencing an opioid-related drug overdose

# LEGISLATIVE OVERVIEW

## State Bills – Naloxone Access – Key Components – Treatment

Encourage overdose victim to receive treatment

- Optimal – victim should be transferred to ER
- Referral to treatment
- Key opportunity for intervention / entry into treatment  
(wake-up call for most victims)
- Include family and friends of a person at risk of experiencing an opioid-related drug overdose

# LEGISLATIVE OVERVIEW

## State Bills – Key Components – Good Samaritan Overdose Protection

As of January 1, 2015

- Twenty-one states plus the District of Columbia had a Good Samaritan Overdose Protection statute

As of September 1, 2015

- Nine states passed new Good Samaritan Overdose Protection legislation
- Total of 30 states plus the District of Columbia have Good Samaritan Overdose Protection legislation

# LEGISLATIVE OVERVIEW

## State Bills – Key Components – Good Samaritan Overdose Protection – Immunity

Immunity from other laws for seeking medical assistance

- Immunity from criminal arrest, charge, prosecution, or conviction or having property subject to civil forfeiture
- In good faith, seeks medical assistance for someone who is experiencing an opioid overdose or is the person experiencing an opioid overdose and seeks medical assistance for him or herself or is the subject of a good faith request for medical assistance
- All of the 31 statutes provide immunity from at least one crime

# LEGISLATIVE OVERVIEW

## State Bills – Key Components – Good Samaritan Overdose Protection – Immunity

Immunity from other laws for seeking medical assistance

- Immunity from criminal liability:
  - Possession of a controlled substance
  - Possession of drug paraphernalia
  - Violation of a restraining or protective order
  - Violation of pre-trial release, probation, or parole

If the evidence was obtained as a result of seeking medical assistance

# LEGISLATIVE OVERVIEW

## State Bills – Key Components – Good Samaritan Overdose Protection – Immunity

Some laws provide that a peace officer *must* not be subject to civil liability for arresting, charging, prosecuting, or having property subject to civil forfeiture if he or she made a mistake regarding a person entitled to immunity, as long as the officer acted in good faith

# LEGISLATIVE OVERVIEW

## State Bills – Key Components – Good Samaritan Overdose Protection – Mitigation

- In a criminal prosecution for which immunity is not provided, the fact that the person sought medical assistance for him/herself or someone who was experiencing a drug overdose must/may be considered by the court as a mitigating factor in any controlled substance case. A court may depart from the lowest permissible sentence when the defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose
- Sixteen of the 31 states allow a court to consider mitigating circumstances

# CONTACT INFORMATION

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