

A BILL

23-54

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend An Act To relieve physicians of liability for negligent medical treatment at the scene of an accident in the District of Columbia to expand the District’s “Good Samaritan” law to decriminalize certain offenses, in the event of an overdose, for individuals who administer opioid antagonists, those on whom opioid antagonists are administered, and bystanders, and to permit a court to consider, as a mitigating factor in criminal prosecutions and sentencing, the administration of an opioid antagonist; to amend the Opioid Overdose Treatment and Prevention Omnibus Act of 2018 to require the Metropolitan Police Department and Department of Health to provide opioid antagonist rescue kits to certain District government employees, issue guidance, and report relevant data, and to provide certain civil and criminal immunity from liability for the distribution and administration of opioid antagonists by those employees; to amend the District of Columbia Uniform Controlled Substances Act of 1981 to decriminalize the possession of injection-related drug paraphernalia; and to amend the Drug Paraphernalia Act of 1982 to decriminalize drug paraphernalia for personal use of a controlled substance, including for certain community-based organizations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Opioid Overdose Treatment and Prevention Omnibus Amendment Act of 2020".

Sec. 2. Section 3 of An Act To relieve physicians of liability for negligent medical treatment at the scene of an accident in the District of Columbia, effective March 19, 2013 (D.C. Law 19-243; D.C. Official Code § 7-403), is amended as follows:

(a) Subsection (a)(1) is amended as follows:

**ENGROSSED ORIGINAL**

(1) Subparagraph (A) is amended by striking the phrase “for himself or herself” and inserting the phrase “for or administers an opioid antagonist to himself or herself” in its place.

(2) Subparagraph (B) is amended by striking the phrase “for that person; or” and inserting the phrase “for or administers an opioid antagonist to that person;” in its place.

(3) Subparagraph (C) is amended by striking the phrase “is sought; and” and inserting the phrase “is sought or to whom an opioid antagonist is administered; or” in its place.

(4) A new subparagraph (D) is added to read as follows:

“(D) Is a bystander to a situation described in subparagraph (A), (B), or (C) of this paragraph; and”.

(b) Subsection (b)(3) is repealed.

(c) Subsection (c) is amended to read as follows:

“(c) The seeking of health care or administration of an opioid antagonist under subsection (a) of this section, whether or not presented by the parties, may be considered by the court as a mitigating factor in any criminal prosecution or sentencing for an offense that is not listed in subsection (b) of this section.”.

Sec. 3. The Opioid Overdose Treatment and Prevention Omnibus Act of 2018, effective April 11, 2019 (D.C. Law 22-288; D.C. Official Code § 7-3201 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 7-3201) is amended by adding new paragraphs (9A), (9B), and (9C) to read as follows:

“(9A) “MPD” means the Metropolitan Police Department.

**ENGROSSED ORIGINAL**

“(9B) “Opioid antagonist” shall have the same meaning as provided in section 3(i)(2) of An Act To relieve physicians of liability for negligent medical treatment at the scene of an accident in the District of Columbia, effective March 19, 2013 (D.C. Law 19-243; D.C. Official Code § 7-403(i)(2)).

“(9C) “Opioid antagonist rescue kit” means a kit that contains:

“(A) An opioid antagonist;

“(B) Overdose educational materials that:

“(i) Conform to DOH or federal Substance Abuse and Mental Health Services Administration guidelines for opioid overdose education;

“(ii) Explain the signs and causes of an opioid overdose; and

“(iii) Instruct individuals when and how to administer an opioid antagonist in accordance with best medical practices; and

“(C) Up to date information on how and where to access opioid use disorder treatment in the District.”.

(b) A new section 104a is added to read as follows:

“Sec. 104a. District government use of opioid antagonists.

“(a) MPD shall:

“(1) Provide opioid antagonist rescue kits to all its sworn personnel;

“(2) Require sworn personnel to carry opioid antagonist rescue kits and administer opioid antagonists in accordance with MPD’s written directives; and

**ENGROSSED ORIGINAL**

“(3) Report monthly data regarding the administration of opioid antagonists by its sworn personnel to the Chairpersons of the Council committees with jurisdiction over health and judiciary and public safety matters, including the:

“(A) Number of individuals to whom an opioid antagonist was administered;

“(B) Police districts in which those opioid antagonists were administered;  
and

“(C) Number of opioid antagonists administered.

“(b) DOH shall:

“(1) Make opioid antagonist rescue kits available, as needed, to District agencies under the purview of the Deputy Mayor for Health and Human Services, including the Child and Family Services Agency, DBH, and the Department of Human Services;

“(2) Establish policies and procedures governing the safe distribution and administration of opioid antagonists; and

“(3) Report monthly data regarding the distribution and administration of opioid antagonists by non-MPD District agency personnel to the Chairpersons of the Council committees with jurisdiction over health and judiciary and public safety matters, including:

“(A) The number of individuals to whom an opioid antagonist was administered;

“(B) The wards in which those opioid antagonists were administered;

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“(C) The agencies whose personnel administered the opioid antagonists;  
and

“(D) Any follow-up by the agencies provided to individuals to whom an opioid antagonist was administered, such as referrals for opioid use disorder treatment.

“(c) A District government employee who distributes or administers an opioid antagonist in accordance with this section shall be immune from civil or criminal liability for that distribution or administration; except, that no immunity shall extend to recklessness, gross negligence, intentional misconduct, or a willful or wanton disregard for the health or safety of others.

“(d) In developing any training for District employees related to this section, the District shall consult with individuals with lived experience of opioid use or opioid use disorder.”.

Sec. 4. Section 410 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-904.10), is repealed.

Sec. 5. The Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1101 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 48–1101) is amended by adding a new paragraph (4) to read as follows:

“(4) “Personal use” means use or possession in circumstances where there is insufficient evidence of intent to distribute or manufacture a controlled substance.”.

(b) Section 4 (D.C. Official Code § 48-1103) is amended as follows:

(1) Subsection (a)(1A) is amended to read as follows:

**ENGROSSED ORIGINAL**

“(1A) Notwithstanding paragraph (1) of this subsection, it shall not be unlawful for a person to use, or possess with the intent to use, drug paraphernalia for the personal use of a controlled substance.”.

(2) Subsection (b)(1A) is amended by striking the phrase “the materials described in section 2(3)(D)” and inserting the phrase “drug paraphernalia for the personal use of a controlled substance” in its place.

(c) Section 4a(d) (D.C. Official Code § 48-1103.01(d)) is amended by striking the phrase “act or section 410 of the District of Columbia Uniformed Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Code § 33-550)” and inserting the word “act” in its place.

(d) Section 5(b) (D.C. Official Code § 48-1104(b)) is repealed.

**Sec. 6. Applicability.**

(a) Section 3 of this act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

**ENGROSSED ORIGINAL**

(2) The date of publication of the notice of the certification shall not affect the applicability of the provision identified in subsection (a) of this section.

**Sec. 7. Fiscal impact statement.**

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

**Sec. 8. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.