

# DRAFT FOR CONSULTATION

## Drug Overdose (Assistance Protection) Legislation Bill

Member's Bill

### Explanatory note

#### General policy statement

This Bill aims to ensure that those who call for life-saving help when they are with someone who is experiencing a drug overdose or adverse drug reaction, are protected from being charged for low-level drug offences under the Misuse of Drugs Act 1975. While those who seek help are not routinely criminally charged, there is a fear of criminal prosecution. This clarification can help avoid overdose deaths by making it clear that those who call for life-saving services will be protected.

The Bill is an omnibus Bill introduced in accordance with Standing Order 267(1)(a) as the provisions deal with an interrelated topic that can be regarded as implementing a single broad policy.

Those who call for life-saving help, those experiencing an overdose or adverse reaction to drugs, and those incidentally at the scene will be protected from being charged with specific offences under the Misuse of Drugs Act. These offences include possession or use of drugs, possession of drug utensils, enabling the premises for low-level drug offending, or social supply of drugs (for example, friends sharing drugs with one another on a non-commercial basis). Those who are on parole with conditions on drug use will also be protected, as they have a heightened overdose risk after a period of sobriety while incarcerated.

There is no 'typical' drug user in New Zealand. On average, about three people die each week from an accidental overdose. Those who die are young and old, from every region in the country, but those most likely to die of an overdose are people aged between 45 and 54 years old. Importantly, this age group is among the least likely to present to hospital for help when experiencing drug poisoning. Our current legal settings are meaning people delay, or avoid, calling for help. This Bill seeks to address that and consequently save lives. Opioid drugs have been responsible for around 65 deaths a year, whereas other drugs like MDMA, cocaine, and methamphetamine are involved in an average of 83 fatal overdoses each year, typically in combination with

other substances. Sometimes, people will take a drug without knowing it has a dangerous additive or it is something different to what they expected. Ultra-potent opioids like fentanyl have been found in other drugs in New Zealand, resulting in some fatal overdoses.

This Bill is not intended to encourage drug use, but to save lives, whether an overdose or adverse reaction is caused by legally prescribed drugs, illicit drugs, or a combination of these.

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause and provides that the Bill comes into force on the day after Royal assent.

## Part 1

### Amendment to Misuse of Drugs Act 1975

*Clause 3* provides that this Part amends the Misuse of Drugs Act 1975.

*Clause 4* inserts *new section 34B* that provides protection to certain specified persons from prosecution for a certain offences under the Act where the evidence that supports the prosecution was obtained or discovered as a result of emergency assistance having been sought for a drug overdose or drug-related acute adverse reaction (either of the person who may otherwise be prosecuted or another person).

## Part 2

### Amendment to Bail Act 2000

*Clause 5* provides that this Part amends the Bail Act 2000.

*Clause 6* inserts *new section 30WA* to provide that a defendant does not breach a drug or alcohol condition of their bail if **section 34B** of the Misuse of Drugs Act 1975 applies to the defendant and the circumstances that gave rise to the contravention of the condition.

## Part 3

### Amendment to Parole Act 2002

*Clause 7* provides that this Part amends the Parole Act 2002.

*Clause 8* amends section 15 of the Act, which provides for the Board to impose special conditions on an offender, including a drug or alcohol condition. The amendment states that an offender does not breach a drug or alcohol condition if **section 34B** of the Misuse of Drugs Act 1975 applies to the offender and the circumstances that gave rise to the contravention of the condition.

*Kahurangi Carter*

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**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Drug Overdose (Assistance Protection) Legislation Act **2025**.

**2 Commencement**

This Act comes into force on the day after Royal assent.

**Part 1****Amendment to Misuse of Drugs Act 1975****3 Principal Act**

This Part amends the Misuse of Drugs Act 1975.

**4 New section 34B inserted (Protection of persons seeking emergency assistance for overdose or acute adverse reaction)**

After section 34A, insert:

**34B Protection of persons seeking or requiring emergency assistance for overdose or acute adverse reaction**

- (1) This section applies to the following persons (a **specified person**):
  - (a) a person who experiences a drug overdose or drug-related acute adverse reaction;
  - (b) a person who, in good faith, seeks emergency assistance for another person who is experiencing a drug overdose or drug-related acute adverse reaction;
  - (c) a person (not being a person described in **paragraph (a) or (b)**) who is at the scene where a drug overdose or drug-related acute adverse reaction occurs and who remains at the scene to offer support or assistance to any person.
- (2) No prosecution for an offence specified in **subsection (3)** may be commenced or continued against a specified person if the evidence in support of that offence was obtained or discovered as a result of—
  - (a) emergency assistance having been sought for a drug overdose or drug-related acute adverse reaction; or
  - (b) the person having remained at the scene of a drug overdose or drug-related acute adverse reaction after emergency medical assistance was sought.
- (3) **Subsection (2)** applies to offences against the following sections:
  - (a) section 7(1)(a):

- (b) section 6(1)(c) to (f), and section 7(1)(b), to the extent the supply, administration, or possession is in the context of social sharing of a controlled drug:
  - (c) section 9, to the extent the cultivation was limited to no more than 2 plants:
  - (d) section 13:
  - (e) section 12, to the extent that the offence committed at the premises or on or in the vessel, aircraft, hovercraft, motor vehicle, or other mode of conveyance was of a type described in **paragraph (a) to (d)**:
- (4) To the extent that, in the circumstances described in **subsection (2)(a)**, a constable has reasonable grounds to believe or to suspect a matter that would authorise a search under sections 20 to 23 of the Search and Surveillance Act 2012, the constable must be treated as not having the grounds that would authorise a search.
- (5) In this section,—
- drug-related acute adverse reaction** means an unwanted or a harmful physical or psychological reaction—
- (a) that is experienced by an individual who has used a controlled drug; and
  - (b) that is suspected to have arisen from, or to be related to, the use of the controlled drug; and
  - (c) that a reasonable person would believe requires emergency assistance
- drug overdose** means a condition that a reasonable person would believe requires emergency assistance that results from the consumption or use of a controlled drug (by itself or in combination with any other controlled drug or other substance).
- social sharing** of a controlled drug—
- (a) means gifting or sharing, or offering to gift or share, an amount of a controlled drug (not being an amount over which a controlled drug is presumed to be for supply) between not more than 5 individuals; but
  - (b) does not include any gifting or sharing for the purpose of either obtaining a material benefit or avoiding a material detriment.

## Part 2

### Amendment to Bail Act 2000

#### 5 Principal Act

This Part amends the Bail Act 2000.

**6 New section 30WA inserted (Drug or alcohol condition of bail not breached in certain circumstances)**

After section 30W, insert:

**30WA Drug or alcohol condition of bail not breached in certain circumstances**

A defendant who is subject to a drug or alcohol condition must not be treated as having breached that condition if, in the circumstances that would otherwise give rise to a contravention, the defendant is a specified person within the meaning of **section 34B(1)** of the Misuse of Drugs Act 1975 and **section 34B(2)** of that Act applies.

### **Part 3**

#### **Amendment to Parole Act 2002**

**7 Principal Act**

This Part amends the Parole Act 2002.

**8 Section 15 amended (Special conditions)**

After section 15(5), insert:

- (6) An offender does not breach a drug or alcohol condition if, in the circumstances that would otherwise give rise to a breach, the offender is a specified person within the meaning of **section 34B(1)** of the Misuse of Drugs Act 1975 and **section 34B(2)** of that Act applies.