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## CRIMINAL LAW AND PROCEDURE MANUAL

The third edition of *Michigan Criminal Law and Procedure: A Manual for Michigan Police Officers* is available for purchase in print and eBook formats.

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## CRIMINAL LAW

### ***The Public Health Code amended to exempt certain individuals from prosecution for the possession or use of a controlled substance or a controlled substance analogue***

Public Acts 307 and 308 of 2016 amended the Public Health Code, [MCL 333.7403](#) and [MCL 333.7404](#), to exempt from prosecution for possession or use of a controlled substance or a controlled substance analogue certain individuals who seek or present themselves or another individual for medical assistance for a drug overdose, attempts in good faith to procure medical assistance for an individual who requires medical assistance due to a drug overdose, or accompanies another individual who requires medical assistance to a health facility or agency.

#### Definitions

The following terms are defined for purposes of [MCL 333.7403](#) and [MCL 333.7404](#):

"Drug overdose" means a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, that is the result of consumption or use of a controlled substance or a controlled substance analogue or a substance with which the controlled substance or controlled substance analogue was combined, or that a layperson would reasonably believe to be a drug overdose that requires medical assistance. [MCL 333.7403\(7\)\(a\)](#) and [MCL 333.7404\(6\)\(a\)](#)

"Seeks medical assistance" means reporting a drug overdose or other medical emergency to law enforcement, the 9-1-1 system, a poison control center, or a medical provider, or assisting someone in reporting a drug overdose or other medical emergency. [MCL 333.7403\(7\)\(b\)](#) and [MCL 333.7404\(6\)\(b\)](#)

#### Individuals exempt from arrest and prosecution

The following individuals are not in violation of [MCL 333.7403](#) or [MCL 333.7404](#) for the unlawful possession

or use of a controlled substance or a controlled substance analogue:

- An individual who seeks medical assistance for himself or herself or who requires medical assistance and is presented for assistance by another individual if he or she is incapacitated because of a drug overdose or other perceived medical emergency arising from the use of a controlled substance or a controlled substance analogue that he or she possesses or possessed. [MCL 333.7403\(3\)\(a\)](#) and [MCL 333.7404\(3\)\(a\)](#)
- An individual who in good faith attempts to procure medical assistance for another individual or who accompanies another individual who requires medical assistance for a drug overdose or other perceived medical emergency arising from the use of a controlled substance or a controlled substance analogue that he or she possesses or possessed. [MCL 333.7403\(3\)\(b\)](#) and [MCL 333.7404\(3\)\(a\)](#)

To be exempt, the amount possessed by the individual must be sufficient only for personal use and the evidence of the individual's possession or use must be obtained as a result of the individual doing one or more of the following:

- Seeking or being presented for medical assistance.
- Attempting to procure medical assistance for another person.
- Accompanying another individual who requires medical assistance to a health facility or agency.

Officers should note that the exemption only applies to criminal prosecution for unlawful possession or use of a controlled substance or a controlled substance analogue under [MCL 333.7403](#) and [MCL 333.7404](#). The exemption does not prevent the investigation, arrest, charging, or prosecution of an individual for any other violation of Michigan law. [MCL 333.7403\(5\)](#) and [MCL 333.7404\(5\)](#)

## STATUTES

### ***The Michigan Penal Code amended to add the offense of willfully and maliciously removing a collar or microchip from a dog with the intent to remove traceable evidence of the dog's ownership***

Public Act 353 of 2016 added [MCL 750.70a](#) to the Michigan Penal Code to prohibit an individual from willfully or maliciously removing a collar or microchip from a dog with the intent to remove traceable evidence of the dog's ownership. An individual who violates this section is responsible for a state civil infraction. This statute does not apply to the owner or the authorized agent of the owner of the dog, a law enforcement officer, an animal control officer, or an animal protection shelter employee acting in his or her official capacity.

*This update is published by the Michigan State Police, Office of the Director, Legal Resource and Education Unit and is provided for informational purposes only. Officers should contact their local prosecutor for an interpretation before applying the information contained in this update. Questions and comments may be directed to [MSPLegal@michigan.gov](mailto:MSPLegal@michigan.gov). Past editions can be found at [www.michigan.gov/msp-legal](http://www.michigan.gov/msp-legal).*