

1 CONFERENCE COMMITTEE REPORT ADOPTED -- NOT
2 PRINTED
3 June 6, 2017

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S. 179

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Introduced by Senators Hutto and Hembree

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9 S. Printed 5/9/17--H.

10 Read the first time April 18, 2017.

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 19 TO CHAPTER 53, TITLE 44 SO AS TO PROVIDE LIMITED IMMUNITY FROM PROSECUTION FOR CERTAIN DRUG AND ALCOHOL-RELATED OFFENSES COMMITTED BY A PERSON WHO SEEKS MEDICAL ASSISTANCE FOR ANOTHER PERSON WHO IS EXPERIENCING A DRUG OR ALCOHOL-RELATED OVERDOSE OR BY A PERSON WHO IS EXPERIENCING A DRUG OR ALCOHOL-RELATED OVERDOSE AND SEEKS MEDICAL ASSISTANCE, TO ALLOW THE COURT TO CONSIDER AS A MITIGATING FACTOR IN PROCEEDINGS RELATED TO OTHER CRIMINAL OFFENSES WHETHER THE PERSON SOUGHT MEDICAL ASSISTANCE FOR A PERSON EXPERIENCING AN OVERDOSE, TO LIMIT THE IMMUNITY TO ALLOW PROSECUTION OF A PERSON FOR OTHER CRIMES ARISING OUT OF THE DRUG OR ALCOHOL-RELATED OVERDOSE, TO ALLOW FOR ADMISSIBILITY OF CERTAIN EVIDENCE, TO PROVIDE CIVIL AND CRIMINAL IMMUNITY FOR LAW ENFORCEMENT OFFICERS RELATING TO THE ARREST OF A PERSON LATER DETERMINED TO QUALIFY FOR LIMITED IMMUNITY, AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 53, Title 44 of the 1976 Code is amended by adding:

1 “Article 19

2
3 Drug or Alcohol-Related Overdose Medical Treatment

4
5 Section 44-53-1910. As used in this article:

6 (1) ‘Controlled substance’ has the same meaning as provided in
7 Section 44-53-110.

8 (2) ‘Drug or alcohol-related overdose’ means an acute
9 condition, including mania, hysteria, extreme physical illness,
10 coma, or death resulting from the consumption or use of a controlled
11 substance, alcohol, or another substance with which a controlled
12 substance or alcohol was combined, that a layperson would
13 reasonably believe to be a drug or alcohol overdose that requires
14 medical assistance.

15 (3) ‘Seeks medical assistance’ means seeking medical
16 assistance by contacting the 911 system, a law enforcement officer,
17 or emergency services personnel.

18
19 Section 44-53-1920. (A) A person who seeks medical
20 assistance for another person who appears to be experiencing a drug
21 or alcohol-related overdose may not be prosecuted for any of the
22 offenses listed in subsection (B), if the evidence for prosecution was
23 obtained as a result of the person seeking medical assistance for the
24 apparent overdose on the premises or immediately after seeking
25 medical assistance and the person:

26 (1) acted in good faith when seeking medical assistance,
27 upon a reasonable belief that he was the first person to call for
28 assistance;

29 (2) provided his own name to the 911 system or to a law
30 enforcement officer upon arrival; and

31 (3) did not seek medical assistance during the course of the
32 execution of an arrest warrant, search warrant, or other lawful
33 search.

34 (B) A person who seeks medical assistance for another person
35 in accordance with the requirements of subsection (A) may not be
36 prosecuted for:

37 (1) dispensing or delivering a controlled substance in
38 violation of Section 44-53-370(a), when the controlled substance is
39 dispensed or delivered directly to the person who appears to be
40 experiencing a drug-related overdose;

41 (2) possessing a controlled substance in violation of
42 Section 44-53-370(c);

1 (3) possessing less than one gram of methamphetamine or
2 cocaine base in violation of Section 44-53-375(A);

3 (4) dispensing or delivering methamphetamine or cocaine
4 base in violation of Section 44-53-375(B), when the
5 methamphetamine or cocaine base is dispensed or delivered directly
6 to the person who appears to be experiencing a drug-related
7 overdose;

8 (5) possessing paraphernalia in violation of Section
9 44-53-391;

10 (6) selling or delivering paraphernalia in violation of
11 Section 44-53-391, when the sale or delivery is to the person who
12 appears to be experiencing a drug-related overdose;

13 (7) purchasing, attempting to purchase, consuming, or
14 knowingly possessing alcoholic beverages in violation of Section
15 63-19-2440;

16 (8) transferring or giving to a person under the age of
17 twenty-one years for consumption beer or wine in violation of
18 Section 61-4-90; or

19 (9) contributing to the delinquency of a minor in violation
20 of Section 16-17-490.

21 (C) If the person seeking medical assistance pursuant to this
22 section previously has sought medical assistance for another person
23 pursuant to this article, the court may consider the circumstances of
24 the prior incidents and the related offenses to determine whether to
25 grant the person immunity from prosecution.

26 (D) A person described in this section must use his or her own
27 name when contacting authorities, fully cooperate with law
28 enforcement and medical personnel, and must remain with the
29 individual needing medical assistance until help arrives.

30
31 Section 44-53-1930. (A) A person who experiences a drug or
32 alcohol-related overdose and is in need of medical assistance may
33 not be prosecuted for any of the offenses listed in Section
34 44-53-1920 if the evidence for prosecution was obtained as a result
35 of the drug or alcohol-related overdose and need for medical
36 assistance.

37 (B) A person described in Section 44-53-1920 must use his
38 or her own name when contacting authorities, and fully cooperate
39 with law enforcement and medical personnel.

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41 Section 44-53-1940. The court may consider a person's decision
42 to seek medical assistance pursuant to Section 44-53-1920(A) or
43 44-53-1930 as a mitigating factor in a criminal prosecution or

1 sentencing for a drug or alcohol-related offense that is not an offense
2 listed in Section 44-53-1920(B).

3
4 Section 44-53-1950. This article does not prohibit a person from
5 being arrested, charged, or prosecuted, or from having his
6 supervision status modified or revoked, based on an offense other
7 than an offense listed in Section 44-53-1920(B), whether or not the
8 offense arises from the same circumstances for which the person
9 sought medical assistance.

10
11 Section 44-53-1960. Nothing in this section may be construed
12 to:

13 (1) limit the admissibility of any evidence in connection with the
14 investigation or prosecution of a crime with regard to a defendant
15 who does not qualify for the protections of Section 44-53-1920(A)
16 or with regard to other crimes committed by a person who otherwise
17 qualifies for protection pursuant to Section 44-53-1920(A) or
18 Section 44-53-1930;

19 (2) limit any seizure of evidence or contraband otherwise
20 permitted by law; or

21 (3) limit or abridge the authority of a law enforcement officer to
22 detain or take into custody a person in the course of an investigation
23 or to effect an arrest for any offense, except as provided in Section
24 44-53-1920(A) or Section 44-53-1930.

25
26 Section 44-53-1970. A law enforcement officer who arrests a
27 person for an offense listed in Section 44-53-1920(B) is not subject
28 to criminal prosecution, or civil liability, for false arrest or false
29 imprisonment if the officer made the arrest based on probable
30 cause.”

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32 SECTION 2. This act takes effect upon approval by the Governor.

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35 /s/Sen. Brad Hutto	/s/Rep. Russell W. Frey
36 /s/Sen. Greg Hembree	/s/Rep. Eric M. Bedingfield
37 /s/Sen. Paul G. Campbell, Jr.	/s/Rep. Robert L. Ridgeway III
38 On Part of the Senate.	On Part of the House.

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