

## New Mexico

### Statute 30-31-27.1. Overdose prevention; limited immunity.

A. A person who, in good faith, seeks medical assistance for someone experiencing an alcohol- or drug-related overdose shall not be arrested, charged, prosecuted or otherwise penalized, nor shall the property of the person be subject to civil forfeiture, for violating any of the following if the evidence for the alleged violation was obtained as a result of the need for seeking medical assistance:

- (1) the provisions of Section 30-31-23 NMSA 1978 or Subsection A of Section 30-31-25.1 NMSA 1978;
- (2) a restraining order; or
- (3) the conditions of probation or parole.

B. A person who experiences an alcohol- or drug-related overdose and is in need of medical assistance shall not be arrested, charged, prosecuted or otherwise penalized, nor shall the property of the person be subject to civil forfeiture, for violating any of the following if the evidence for the alleged violation was obtained as a result of the overdose and the need for seeking medical assistance:

- (1) the provisions of Section 30-31-23 NMSA 1978 or Subsection A of Section 30-31-25.1 NMSA 1978;
- (2) a restraining order; or
- (3) the conditions of probation or parole.

C. The act of seeking medical assistance for someone who is experiencing an alcohol- or drug-related overdose may be used as a mitigating factor in a criminal prosecution pursuant to the Controlled Substances Act for which immunity is not provided pursuant to this section.

D. For the purposes of this section, "seeking medical assistance" means:

- (1) reporting an alcohol- or drug-related overdose or other medical emergency to law enforcement, the 911 system or another emergency dispatch system, a poison control center or a health care provider; or
- (2) assisting an individual who is reporting an alcohol- or drug-related overdose or providing care to an individual who is experiencing an alcohol- or drug-related overdose or other medical emergency while awaiting the arrival of a health care provider.

**History:** Laws 2007, ch. 260, § 1; 2019, ch. 211, § 3.

## ANNOTATIONS

**The 2019 amendment**, effective July 1, 2019, expanded limited immunity for those who seek medical assistance for someone experiencing a drug-related overdose to include alcohol overdose, and provided an exemption from civil forfeiture for the property of a person who, in good faith, seeks medical assistance for someone experiencing an alcohol- or drug-related overdose, and provided similar protections for the person who is experiencing an overdose who seeks medical assistance; in Subsection A, after "experiencing", deleted "a" and added "an alcohol- or", after "shall not be", added "arrested", after "prosecuted", added "or otherwise be penalized, nor shall the property of the person be subject to civil forfeiture", and after "for", deleted "possession of a controlled substance" and added "violating any of the following if the evidence for the alleged violation was obtained as a result of the need for seeking medical assistance", in Paragraph A(1), after "Section 30-31-23", added "NMSA 1978 or Subsection A of Section 30-31-25.1", deleted "if the evidence for the charge of possession of a controlled substance was gained as a result of the seeking of medical assistance", and added Paragraphs A(2) and A(3); in Subsection B, after "experiences", deleted "a" and added "an alcohol- or", after "shall not be", added "arrested", after "prosecuted", added "or otherwise penalized, nor shall the property of the person be subject to civil forfeiture", after "for", deleted "possession of a controlled substance pursuant to" and added "violating any of the following if the evidence for the alleged violation was obtained as a result of the overdose and the need for seeking medical assistance", in Paragraph B(1), after "Section 30-31-23", added "NMSA 1978 or Subsection A of Section 30-31-25.1", deleted "if the evidence for the charge of possession of a controlled substance was gained as a result of the overdose and the need for medical assistance", and added Paragraphs B(2) and B(3); in Subsection C, after "experiencing", deleted "a" and added "an alcohol- or", after "Controlled Substances Act", added "for which immunity is not provided pursuant to this section."; and added Subsection D.

Source: [Chapter 30 - Criminal Offenses - NMOneSource.com](#)