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HOUSE BILL NO. 2117

House Amendments in [] - January 29, 2025

A BILL to amend and reenact § 18.2-251.03 of the Code of Virginia, relating to arrest and prosecution when experiencing or reporting an overdose or act of sexual violence.

Patron Prior to Engrossment—Delegate Keys-Gamarra

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-251.03 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-251.03. Arrest and prosecution when experiencing or reporting an overdose or act of sexual violence.

A. For purposes of this section, "overdose":

"Act of sexual violence" means an alleged violation of § 18.2-361, 18.2-370, or [~~18.2-371~~ 18.2-370.1] or the laws pertaining to criminal sexual assault pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4.

"Overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana pursuant to § 4.1-1105.1, possession of a controlled substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith, renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or obtains emergency medical attention in accordance with this subdivision;

2. Such individual remains at the scene of the overdose or at any alternative location to which he or the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

3. Such individual identifies himself to the law-enforcement officer who responds to the report of the overdose; and

4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of the individual seeking or obtaining emergency medical attention or rendering emergency care or assistance.

C. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana pursuant to § 4.1-1105.1, possession of a controlled substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

1. Such individual, in good faith, seeks or obtains assistance for himself or another individual from emergency medical services personnel, as defined in § 32.1-111.1, a health care provider, as defined in § 8.01-581.1, or a law-enforcement officer, as defined in § 9.1-101, and seeks to report an act of sexual violence committed against himself or another individual;

2. Such individual identifies himself to the law-enforcement officer who responds to the report of the act of sexual violence; and

3. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of the individual seeking or obtaining [~~emergency~~] medical attention [~~or~~ ,] rendering [~~emergency~~] care or assistance [, or reporting to law enforcement] .

This subsection shall not apply to an individual who is alleged to have committed the act of sexual violence.

D. The provisions of this section shall not apply to any person who seeks or obtains emergency medical attention for himself or another individual, to a person experiencing an overdose or who has experienced an act of sexual violence when another individual seeks or obtains emergency medical attention for him, or to a person who renders emergency care or assistance to an individual experiencing an overdose or who has experienced an act of sexual violence while another person seeks or obtains emergency medical attention

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59 during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

60 ~~D.~~ *E.* This section does not establish protection from arrest or prosecution for any individual or offense
61 other than those listed in subsection B or C. *However, any individual immune to arrest or prosecution under*
62 *this section shall not have his bail, probation, furlough, supervised release, [suspended sentence,] or parole*
63 *revoked for complying with the provisions of this section.*

64 ~~E.~~ *F.* No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later
65 determined that the person arrested was immune from prosecution under this section.