

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 799
Judiciary

(Delegates J. Lewis and Morhaim)

Judicial Proceedings

Criminal Procedure - Medical Emergency - Immunity

This bill specifies that a person who is experiencing a medical emergency, rather than a person *who reasonably believes* that the person is experiencing a medical emergency, after ingesting or using alcohol or drugs is immune from criminal arrest, charge, or prosecution for specified violations if the evidence for criminal prosecution was obtained solely as a result of the person seeking or receiving medical assistance. The bill also clarifies that existing prohibitions against sanctioning a person for violation of pretrial release, probation, or parole apply to a person who is experiencing a medical emergency after ingesting alcohol or drugs.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Current Law: Chapter 714 of 2009 established that the act of seeking medical assistance for a person who is experiencing a medical emergency after ingesting alcohol or drugs may be used as a mitigating factor in a criminal prosecution.

Chapter 401 of 2014 expanded this provision by establishing that a person who, in good faith, seeks, provides, or assists with the provision of medical assistance for a person experiencing a medical emergency after ingesting or using alcohol or drugs must be

immune from criminal prosecution for specified violations if the evidence for the criminal prosecution was obtained solely as a result of the person's seeking, providing, or assisting with the provision of medical assistance. In addition, Chapter 401 established that a person who experiences a medical emergency after ingesting or using alcohol or drugs must be immune from criminal prosecution for certain violations if the evidence for the criminal prosecution was obtained solely as a result of another person's seeking medical assistance. Chapter 401 also established that the act of seeking, providing, or assisting with the provision of medical assistance for another person who is experiencing a medical emergency after ingesting or using alcohol or drugs may be used as a mitigating factor in a criminal prosecution.

Chapter 375 of 2015 clarified that the act of seeking, providing, or assisting with the provision of medical assistance for another person who is experiencing a medical emergency after ingesting or using alcohol or drugs may be used as a mitigating factor in a criminal prosecution of (1) the person who experienced the medical emergency or (2) any person who sought, provided, or assisted in the provision of medical assistance.

Additionally, Chapter 375 established that immunity applies to situations involving a person who, in good faith, provides medical assistance to another reasonably believed to be experiencing a medical emergency, or a person *who reasonably believes* that he or she is experiencing a medical emergency.

Chapter 375 also expanded application of immunity from criminal prosecution to include immunity from criminal arrest or charge and clarified that immunity from criminal arrest, charge, or prosecution for specified offenses applies if the evidence for the criminal arrest, charge, or prosecution was obtained solely as a result of the person seeking or receiving medical assistance. Additionally, a person who seeks, provides, or assists with the provision of medical assistance in accordance with statute may not be sanctioned for a violation of a condition of pretrial release, probation, or parole if the evidence of the violation was obtained solely as a result of the person seeking, providing, or assisting with the provision of medical assistance.

Background: According to the National Conference of State Legislatures, 40 states and the District of Columbia have enacted some form of a "Good Samaritan" or 9-1-1 drug immunity law to establish immunity from arrest, charge, or prosecution for controlled substance offenses when a person is experiencing an opiate-related overdose or is observing such an overdose and seeks medical assistance. States are also increasingly providing immunity from violations of pretrial, probation, or parole conditions and violations of protection or restraining orders.

Additional Information

Prior Introductions: None.

Cross File: SB 625 (Senator Smith) - Judicial Proceedings.

Information Source(s): Montgomery and Prince George's counties; cities of Annapolis and Bowie; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; National Conference of State Legislatures; Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2018
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