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**HOUSE BILL NO. 595**

Offered January 10, 2018

Prefiled January 8, 2018

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-251.04, relating to safe reporting of overdoses.*

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Patron—Carr

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 18.2-251.04 as follows:**

**§ 18.2-251.04. Safe reporting of overdoses; affirmative defense for person experiencing an overdose.**

A. For purposes of this section, "overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. It shall be an affirmative defense to prosecution of an individual for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, possession of a controlled substance pursuant to § 18.2-250, possession of marijuana pursuant to § 18.2-250.1, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466, if:

1. Such individual experiences an overdose and another individual, in good faith, seeks or obtains emergency medical attention for the individual experiencing an overdose 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;

2. The individual experiencing the overdose and the individual who seeks or obtains emergency medical attention for the individual experiencing the overdose remain at the scene of the overdose or at any alternative location to which the individual 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 both the individual experiencing the overdose and the individual who seeks or obtains emergency medical attention for the individual experiencing the overdose shall cooperate with law enforcement as otherwise set forth herein;

3. Both the individual experiencing the overdose and the individual who seeks or obtains emergency medical attention for the individual experiencing the overdose identify themselves to the law-enforcement officer who responds to the report of the overdose;

4. If requested by a law-enforcement officer, the individual experiencing the overdose substantially cooperates in any investigation of any criminal offense reasonably related to the controlled substance, alcohol, or combination of such substances that resulted in the overdose; and

5. 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 for the individual experiencing the overdose.

C. No individual may assert the affirmative defense provided for in this section if the person sought or obtained emergency medical attention for another individual during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

D. This section does not establish an affirmative defense for any individual or offense other than those listed in subsection B.

INTRODUCED

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