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## HOUSE BILL NO. 532

Offered January 8, 2020

Prefiled January 5, 2020

A *BILL to amend and reenact § 18.2-251.03 of the Code of Virginia, relating to safe reporting of overdoses; immunity from prosecution.*

Patrons—Carr, Bagby, Hope, Kory, LaRock, Lopez, Samirah and Simon

Referred to Committee on Public Safety

**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. Safe reporting of overdoses.**

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~~ *No individual shall be prosecuted 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; *(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, or (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, the statewide poison control system established pursuant to § 32.1-111.15, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system;*

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.

C. ~~No individual may assert the affirmative defense provided for in this section if the person sought or obtained who is immune from prosecution pursuant to this section shall be found to be in violation of any term or condition of probation, parole, postrelease supervision, pretrial supervision, a suspended sentence, or bail, bond, or recognizance on the basis of evidence obtained as a result of an individual's seeking or obtaining emergency medical attention.~~

D. *The real or personal property of an individual who is immune from prosecution pursuant to this section that was used in connection with or derived from an offense enumerated in subsection B shall not be subject to forfeiture to the Commonwealth pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.*

E. *The provisions of this section shall not apply to any individual who (i) seeks or obtains emergency medical attention for himself or another individual, or (ii) is experiencing an overdose when another individual seeks or obtains emergency medical attention for such individual, during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.*

~~D. F. This section does not establish an affirmative defense grant immunity from prosecution for any individual or offense other than those listed in subsection B.~~

INTRODUCED

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