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SENATE BILL NO. 667

Senate Amendments in [] - February 11, 2020

A BILL to amend and reenact § 18.2-251.03 of the Code of Virginia, relating to arrest and prosecution when experiencing or reporting overdoses.

Patrons Prior to Engrossment—Senators Boysko, Bell, Morrissey and McClellan

Referred to Committee on the Judiciary

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 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~~ *No individual shall be subject to arrest or 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; (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, 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 would have been obtained only as a result of the an 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~~ *The provisions of this section if the shall not apply to any person who sought or obtained seeks or obtains emergency medical attention for himself or another individual, or to a person experiencing an overdose when another individual seeks or obtains emergency medical attention for him, 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~~ *protection from arrest or prosecution* for any individual or offense other than those listed in subsection B.

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

REENGROSSED

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