

JAN 26 2011

A BILL FOR AN ACT

RELATING TO MEDICAL AMNESTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that good samaritan
2 policies, also known as medical amnesty, are life-saving
3 measures that are in the best interest of the public's health,
4 safety, and welfare. These policies enable people to make
5 responsible decisions by shielding them from punishment when
6 they seek medical attention during an emergency involving
7 controlled substances. The legislature finds that the threat of
8 criminal punishment may often cause people to hesitate taking
9 necessary action in such emergency situations. Time spent
10 worrying about legal consequences delays the arrival of
11 critically needed medical assistance. Even a short delay can
12 mean the difference between life and death.

13 The legislature also finds that a study conducted at
14 Cornell University, and recently published in the International
15 Journal of Drug Policy, demonstrated that good samaritan
16 policies are effective in ensuring that people receive help
17 during alcohol-related emergencies. Such policies are already
18 in place at many colleges and universities across the United



1 States and have been enacted as state law in New Mexico and
2 Washington. Several other states are currently considering
3 similar legislation.

4 The legislature further finds that, if criminal punishment
5 is intended to deter drug abuse, it is clearly too late to deter
6 such abuse when a person is already suffering from an overdose.
7 Good samaritan policies should not be perceived as a "get out of
8 jail free card" or a reward for illegal drug use. Rather, they
9 enable individuals to make potentially life-saving decisions
10 promptly and without hesitation.

11 The purpose of this Act is to provide limited immunity from
12 drug possession charges when a person calls for medical
13 assistance during a drug overdose emergency.

14 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 "§329- Overdose prevention; limited immunity. (a) A
18 person shall not be charged, subject to civil or criminal
19 forfeiture, or otherwise prosecuted for possession of a
20 controlled substance under this chapter or part IV of chapter
21 712 if:

22 (1) The person witnessed a drug overdose;



1 (2) The person reasonably believed that the drug overdose
2 would result in imminent threat to the health or life
3 of the drug overdose victim;

4 (3) The person summoned medical assistance at the time of
5 witnessing the event; and

6 (4) Evidence of the specific violation was gained as a
7 result of the person's seeking medical assistance;
8 provided that a clear history of healthcare system or public
9 safety abuse is not evidenced by the person's actions.

10 (b) A person shall not be charged, subject to civil or
11 criminal forfeiture, or otherwise prosecuted for possession of a
12 controlled substance under this chapter or part IV of chapter
13 712 if:

14 (1) The person experiences a drug overdose and is in need
15 of medical assistance; and

16 (2) Evidence of the specific violation was gained as a
17 result of the person's drug overdose and the person's
18 need for medical assistance;

19 provided that a clear history of healthcare system or public
20 safety abuse is not evidenced by the person's actions.



1 (c) This section shall not apply to a prosecution where
2 the person who sought the medical assistance sold the drugs to
3 the drug overdose victim."

4 SECTION 3. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 4. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2011.

9

INTRODUCED BY: *John Ryan* (BK)



Report Title:

Good Samaritan Policies; Medical Amnesty; Controlled Substances

Description:

Establishes limited immunity for individuals who seek medical assistance for victims of drug overdoses.

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