

JAN 23 2015

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 alcohol or controlled substances.

8 The legislature also finds that the threat of criminal
9 punishment may often cause people to hesitate from taking
10 necessary action in such emergency situations. Time spent
11 worrying about legal consequences delays the arrival of
12 critically needed medical assistance. Even a short delay can
13 mean the difference between life and death.

14 The legislature further finds that overdoses nationwide
15 more than doubled between 2000 and 2006. Nationally and in
16 Hawaii, more people die from drug overdose than in car
17 accidents. Drug overdoses have increased greatly in Hawaii,



1 becoming the leading cause of injury-related mortality over the
2 2007-2012 period, as described by death certificates. The
3 number of fatal drug poisonings in Hawaii has increased from
4 eighty-three deaths in 1999 to one hundred eighty-three in 2011,
5 with non-fatal poisonings increasing to a high of 4,714 in 2011
6 alone.

7 The legislature further finds that a report from Trust for
8 America's Health titled "Prescription Drug Abuse: Strategies to
9 Stop the Epidemic" identified ten best practices for states to
10 implement to curb prescription drug abuse. Hawaii has six of
11 these promising strategies in place, and the adoption of Good
12 Samaritan legislation would bring the number to seven. Such
13 policies are already in place at more than two hundred forty
14 colleges and universities across the United States and have been
15 enacted as state law in twenty states, including Alaska,
16 California, Colorado, Florida, New York, Utah, and Washington.

17 The legislature further finds that, if criminal punishment
18 is intended to deter drug abuse, it is clearly too late to deter
19 such abuse when a person is already suffering from an overdose.
20 Good Samaritan policies should not be perceived as a "get out of
21 jail free card" or a reward for illegal drug use. Rather, they



1 enable individuals to make potentially life-saving decisions
2 promptly and without hesitation.

3 The purpose of this Act is to provide limited immunity from
4 liquor, controlled substance, and drug paraphernalia possession
5 charges when a person calls for medical assistance during an
6 alcohol or drug-related overdose emergency.

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

10 "§329- Overdose prevention; limited immunity. (a) The
11 following definitions apply throughout this section:

12 "Drug or alcohol overdose" means:

- 13 (1) A condition, including but not limited to extreme
14 physical illness, decreased level of consciousness,
15 respiratory depression, coma, mania, or death, that is
16 the result of consumption or use of a controlled
17 substance or alcohol or a substance with which the
18 controlled substance or alcohol was combined; or
19 (2) A condition that a layperson would reasonably believe
20 to be a drug or alcohol overdose that requires medical
21 assistance.



1 "Seeks medical assistance" or "seeking medical assistance"
2 shall include but not be limited to reporting a drug or alcohol
3 overdose or other medical emergency to law enforcement, the 911
4 system, a poison control center, or a medical provider;
5 assisting someone so reporting; or providing care to someone who
6 is experiencing a drug or alcohol overdose or other medical
7 emergency while awaiting the arrival of medical assistance.

8 (b) A person or persons who, in good faith, seek medical
9 assistance for someone who is experiencing a drug or alcohol
10 overdose or other medical emergency and a person experiencing a
11 drug or alcohol overdose or other medical emergency who seeks
12 medical assistance for the person's self or is the subject of
13 such a good faith request shall not be arrested, charged,
14 prosecuted, convicted; have their property subject to civil
15 forfeiture; or otherwise be penalized for:

16 (1) Possession of a controlled substance or drug
17 paraphernalia under this chapter or part IV of chapter
18 712;

19 (2) Committing a prohibited act under section 281-101.5 or
20 712-1250.5;

21 (3) Violation of a restraining order; or



1 (4) Violation of probation or parole, if the evidence for
 2 the arrest, charge, prosecution, conviction, seizure
 3 or penalty was gained as a result of the seeking of
 4 medical assistance.

5 (c) The act of seeking medical assistance for someone who
 6 is experiencing a drug or alcohol overdose or other medical
 7 emergency shall be considered by the court as a mitigating
 8 factor in any controlled substance or alcohol-related criminal
 9 prosecution for which immunity is not provided by this section."

10 SECTION 3. This Act does not affect rights and duties that
 11 matured, penalties that were incurred, and proceedings that were
 12 begun before its effective date.

13 SECTION 4. New statutory material is underscored.

14 SECTION 5. This Act shall take effect on July 1, 2015.

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S.B. NO. 982

Report Title:

Good Samaritan Policies; Medical Amnesty; Controlled Substances

Description:

Establishes limited immunity for individuals who seek medical assistance for themselves or others experiencing a drug or alcohol overdose or other medical emergency.

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