

JAN 23 2015

A BILL FOR AN ACT

RELATING TO HEALTH.

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 facilitate responsible
5 decision-making by shielding individuals from punishment when
6 they seek medical attention during an emergency involving
7 alcohol and controlled substances. The threat of criminal
8 punishment may cause people to hesitate from taking necessary
9 action in emergency situations. Worrying about legal
10 consequences can delay the arrival of critically needed medical
11 assistance. Even a short delay can mean the difference between
12 life and death.

13 The legislature further finds that drug overdoses more than
14 doubled nationwide between 2000 and 2006. Nationally and in
15 Hawaii, more people die from drug overdoses than car accidents.
16 Drug overdoses have increased greatly in Hawaii, becoming the
17 leading cause of injury-related mortality during the period from



1 2007 to 2012, as described by death certificates. The number of
2 fatal drug poisonings in Hawaii has increased from eighty-three
3 deaths in 1999 to one hundred eighty-three in 2011, with non-
4 fatal poisonings increasing to a high of 4,714 in 2011.

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

15 The legislature further finds that, if criminal punishment
16 is intended to deter drug abuse, it clearly is too late to deter
17 abuse when a person is already suffering from an overdose. Good
18 Samaritan policies should not be perceived as a "get out of jail
19 free card" or a reward for illegal drug use. Rather, they
20 enable individuals to make potentially life-saving decisions
21 promptly and without hesitation.



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

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

8 "§329- Overdose prevention; limited immunity. (a) A
9 person shall not be charged, subject to civil forfeiture, or
10 otherwise prosecuted for possession of a controlled substance or
11 drug paraphernalia under this chapter, chapter 281, or sections
12 712-1241(a), 712-1242(a) and (b), 712-1243, 712-1244(a) and (b),
13 712-1245(a) and (b), 712-1246, 712-1246.5, 712-1247(a), (b),
14 (e), and (g), and 712-1248(a) to (c), or be charged with
15 violating a restraining order or the terms and conditions of
16 probation or parole if:

- 17 (1) The person was a witness to a drug-related overdose;
18 (2) The person reasonably believed that the drug-related
19 overdose would result in imminent threat to the health
20 or life of the drug-related overdose victim;



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

3 (4) Evidence of the specific violation was gained solely
4 as a result of the person's seeking medical
5 assistance.

6 (b) A person shall not be charged, subject to civil
7 forfeiture, or otherwise prosecuted for possession of a
8 controlled substance or drug paraphernalia under this chapter,
9 chapter 281, or sections 712-1241(a), 712-1242(a) and (b), 712-
10 1243, 712-1244(a) and (b), 712-1245(a) and (b), 712-1246, 712-
11 1246.5, 712-1247(a), (b), (e), and (g), and 712-1248(a) to (c),
12 or be charged with violating a restraining order or the terms
13 and conditions of probation or parole if:

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

16 (2) Evidence of the specific violation was gained solely
17 as a result of the person seeking medical assistance.

18 (c) The act of seeking medical assistance for an
19 individual who is experiencing a drug-related overdose shall be
20 considered by a court as a mitigating factor in any prosecution



1 that is related to a controlled substance or alcohol and for
2 which immunity is not provided by this section.

3 (d) As used in this section:

4 "Drug-related overdose" means an acute medical condition
5 that:

6 (1) Is the result of the ingestion or use by an individual
7 of alcohol, one or more controlled substances, or one
8 or more controlled substances in combination with
9 alcohol in quantities that are excessive for that
10 individual; and

11 (2) May result in immediate death, disability, or serious
12 injury.

13 "Drug-related overdose" includes a condition that a reasonable
14 person would believe to be a drug-related overdose that may
15 result in immediate death, disability, or serious injury.

16 "Summoned medical assistance" includes, but is not limited
17 to, reporting a drug-related overdose to emergency medical or
18 law enforcement personnel, a poison control center, or medical
19 services provider or assisting another individual who is
20 reporting a drug-related overdose while awaiting the arrival of
21 medical assistance."



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1 SECTION 3. This Act does not affect rights and duties that
2 matured; penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 4. New statutory material is underscored.

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

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Report Title:

Women's Legislative Caucus Package; Good Samaritan Policies;
Medical Amnesty; Controlled Substances

Description:

Establishes limited immunity for individuals who seek medical assistance for victims of overdoses of drugs or alcohol.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

