

JAN 23 2009

A BILL FOR AN ACT

RELATING TO CONTROLLED SUBSTANCES.

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 enable people to make responsible decisions during
4 a medical emergency involving controlled substances. Those
5 policies remove the threat of criminal punishment that often
6 causes hesitation to take necessary action in emergency
7 situations. Time spent worrying about legal consequences delays
8 the arrival of critically needed medical assistance. Even a
9 short delay can be the difference between life and death. Good
10 samaritan measures, in place at more than one hundred colleges
11 and universities and as state law in New Mexico, ensure that
12 people receive help when they are in trouble during an apparent
13 drug overdose. A number of other states are considering similar
14 legislation.

15 The legislature further finds if criminal punishment is
16 intended to deter drug use, clearly it is too late to deter when
17 a person is already suffering from an overdose. Good samaritan



1 policies should not be perceived as a "get out of jail free
2 card" or a reward for illegal drug use. Instead, they enable an
3 individual to make a potentially life-saving decision promptly,
4 without hesitation.

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

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

11 "§329- Overdose prevention; limited immunity. (a) A
12 person shall not be charged, subject to civil forfeiture, or
13 otherwise prosecuted for a violation of this chapter or of part
14 IV of chapter 712 if:

- 15 (1) The person was a witness to a drug overdose;
16 (2) The person reasonably believed that the overdose would
17 result in imminent threat to the health or life of the
18 overdose victim;
19 (3) The person summoned medical assistance at the time it
20 was witnessed; and
21 (4) Evidence of the specific violation was gained as a
22 result of the person's seeking medical assistance.



1 (b) A person shall not be charged, subject to civil
2 forfeiture, or otherwise prosecuted for a violation of this
3 chapter if:

- 4 (1) The person experiences a drug overdose and is in need
5 of medical assistance; and
6 (2) Evidence of the specific violation was gained as a
7 result of the person's overdose and the person's need
8 for medical assistance.

9 (c) This section shall not apply to a prosecution where
10 the person who sought the medical assistance sold the drugs to
11 the victim."

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

15 SECTION 4. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



Report Title:

Good Samaritan; Medical Amnesty

Description:

Establishes limited immunity for seeking medical assistance for victims of drug overdoses.

