

JAN 18 2013

S.B. NO. 394

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 from
9 taking necessary action in such emergency situations. Time
10 spent 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 further finds that overdoses nationwide
14 more than doubled between 2000 and 2006. Nationally and in
15 Hawaii, more overdose deaths are caused by prescription drugs
16 than all illegal drugs combined. Middle-aged Americans are the
17 hardest hit by the overdose crisis. Nationally, more people
18 aged thirty-five to fifty-four died of drug overdose than in



1 motor vehicle accidents. Drug overdose is the second leading
2 cause of injury-related deaths among young adults aged fifteen
3 to thirty-four. In Hawaii there were one hundred seventy-three
4 overdose deaths in 2011. The increase in unintentional drug
5 poisonings has made this the third leading cause of fatal
6 injuries among Hawaii residents over the last five years. Over
7 twenty years, unintentional drug overdoses have surpassed car
8 crashes, homicides, drowning, and pedestrian fatalities as a
9 leading cause of injury mortality.

10 The legislature also finds that a study conducted at
11 Cornell University, and recently published in the International
12 Journal of Drug Policy, demonstrated that Good Samaritan
13 policies are effective in ensuring that people receive help
14 during alcohol-related emergencies. Such policies are already
15 in place at many colleges and universities across the United
16 States and have been enacted as state law in ten states,
17 including California, Colorado, Florida, New York, and
18 Washington.

19 The legislature further finds that, if criminal punishment
20 is intended to deter drug abuse, it is clearly too late to deter
21 such abuse when a person is already suffering from an overdose.
22 Good Samaritan policies should not be perceived as a "get out of



1 jail free card" or a reward for illegal drug use. Rather, they
2 enable individuals to make potentially life-saving decisions
3 promptly and without hesitation.

4 The purpose of this Act is to provide limited immunity from
5 drug and drug paraphernalia possession charges when a person
6 calls for medical assistance during a drug-related overdose
7 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 possession of a controlled substance or
14 drug paraphernalia under this chapter, chapter 281, or part IV
15 of chapter 712 if:

- 16 (1) The person was a witness to a drug-related overdose;
- 17 (2) The person reasonably believed that the drug-related
18 overdose would result in imminent threat to the health
19 or life of the drug-related overdose victim;
- 20 (3) The person summoned medical assistance at the time of
21 witnessing the event; and



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

3 (b) A person shall not be charged, subject to civil
4 forfeiture, or otherwise prosecuted for possession of a
5 controlled substance or drug paraphernalia under this chapter,
6 chapter 281, or part IV of chapter 712 if:

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

9 (2) Evidence of the specific violation was gained as a
10 result of the person's drug-related overdose and the
11 person's need for medical assistance.

12 (c) This section shall not apply to a prosecution where
13 the person who sought the medical assistance sold the drugs to
14 the drug-related overdose victim.

15 (d) As used in this section, "drug-related overdose" means
16 an acute medical condition that is the result of the ingestion
17 or use by an individual of alcohol, one or more controlled
18 substances, or one or more controlled substances in combination
19 with alcohol in quantities that are excessive for that
20 individual that may result in death, disability, or serious
21 injury. An individual's condition shall be deemed to be a
22 "drug-related overdose" if a reasonable person would believe the



1 condition to be a drug-related overdose that may result in
2 death, disability, or serious injury."

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

6 SECTION 4. New statutory material is underscored.

7 SECTION 5. This Act shall take effect on July 1, 2013.

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S.B. NO. 394

Report Title:

Good Samaritan Policies; Medical Amnesty; Controlled Substances

Description:

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

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