

ACT 217

S.B. NO. 982

A Bill for an Act Relating to Medical Amnesty.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Good Samaritan policies, also known as medical amnesty, are life-saving measures that are in the best interest of the public's health, safety, and welfare. These policies enable people to make responsible decisions by protecting them from punishment when they seek medical attention during an emergency involving alcohol or controlled substances.

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

The legislature further finds that overdoses nationwide more than doubled between 2000 and 2006. Nationally, and in Hawaii, more people die from drug overdose than in car accidents. Drug overdoses have increased greatly in Hawaii, becoming the leading cause of injury-related mortality over the 2007-2012 period, as described by death certificates. Fatal drug poisonings in Hawaii have increased from eighty-three deaths in 1999 to one hundred eighty-three in 2011, with non-fatal poisonings increasing to a high of 4,714 in 2011 alone.

The legislature further finds that a report from Trust for America's Health titled "Prescription Drug Abuse: Strategies to Stop the Epidemic" identified ten best practices for states to implement to curb prescription drug abuse. Hawaii has six of these promising strategies in place, and the adoption of Good Sa-

maritan legislation would bring the number to seven. Such policies are already in place at more than two hundred forty colleges and universities across the United States and have been enacted as state law in twenty states, including Alaska, California, Colorado, Florida, New York, Utah, and Washington.

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

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

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

“§329- Overdose prevention; limited immunity. (a) As used in this section:

“Drug or alcohol overdose” means:

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

“Seeks medical assistance” or “seeking medical assistance” includes but is not limited to reporting a drug or alcohol overdose to law enforcement, the 911 system, a poison control center, or a medical provider; assisting someone so reporting; or providing care to someone who is experiencing a drug or alcohol overdose while awaiting the arrival of medical assistance.

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

- (1) Possession of a controlled substance or drug paraphernalia under this chapter or part IV of chapter 712;
- (2) Committing a prohibited act under section 281-101.5 or 712-1250.5;
- (3) Violation of a restraining order; or
- (4) Violation of probation or parole;

if the evidence for the arrest, charge, prosecution, conviction, seizure, or penalty was gained as a result of the seeking of medical assistance.

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

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

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.
(Approved July 7, 2015.)

Note

1. Edited pursuant to HRS §23G-16.5.