

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1009

(Delegate Smith, *et al.*)

Judiciary

Judicial Proceedings

**Criminal Procedure - Immunity - Alcohol- or Drug-Related Medical
Emergencies**

This bill expands and clarifies the statutory immunity concerning the seeking or providing of assistance for a medical emergency after ingesting or using alcohol or drugs.

Fiscal Summary

State Effect: None. Although the bill's provisions could potentially result in fewer cases, it is not expected to significantly impact the Judiciary or the Department of Public Safety and Correctional Services.

Local Effect: None. Although the bill's provisions could potentially result in fewer cases, it is not expected to significantly impact the circuit courts, State's Attorney's offices, or local detention centers.

Small Business Effect: None.

Analysis

Bill Summary: The bill clarifies that the act of seeking, providing, or assisting with the provision of medical assistance for another person who is experiencing a medical emergency after ingesting or using alcohol or drugs may be used as a mitigating factor in a criminal prosecution of (1) the person who experienced the medical emergency or (2) any person who sought, provided, or assisted in the provision of medical assistance.

The bill establishes that immunity applies to situations involving a person who, in good faith provides medical assistance to another reasonably believed to be experiencing a

medical emergency, or, a person who reasonably believes that he or she is experiencing a medical emergency, rather than the current application of immunity to situations involving a person who is experiencing a medical emergency.

The bill expands application of immunity from criminal prosecution to include immunity from criminal arrest or charge and clarifies that immunity from criminal arrest, charge, or prosecution for specified offenses applies if the evidence for the criminal arrest, charge, or prosecution was obtained solely as a result of the person seeking or receiving medical assistance. The bill adds the prohibition on controlled paraphernalia to the list of offenses to which this immunity applies.

A person who seeks, provides, or assists with the provision of medical assistance in accordance with statute may not be sanctioned for a violation of a condition of pretrial release, probation, or parole if the evidence of the violation was obtained solely as a result of the person seeking, providing, or assisting with the provision of medical assistance.

Current Law: Chapter 714 of 2009 established that the act of seeking medical assistance for a person who is experiencing a medical emergency after ingesting alcohol or drugs may be used as a mitigating factor in a criminal prosecution.

Chapter 401 of 2014 expanded this provision by establishing that a person who, in good faith, seeks, provides, or assists with the provision of medical assistance for a person experiencing a medical emergency after ingesting or using alcohol or drugs must be immune from criminal prosecution for specified violations if the evidence for the criminal prosecution was obtained solely as a result of the person's seeking, providing, or assisting with the provision of medical assistance. In addition, a person who experiences a medical emergency after ingesting or using alcohol or drugs must be immune from criminal prosecution for certain violations if the evidence for the criminal prosecution was obtained solely as a result of another person's seeking medical assistance. The act of seeking, providing, or assisting with the provision of medical assistance for another person who is experiencing a medical emergency after ingesting or using alcohol or drugs may be used as a mitigating factor in a criminal prosecution.

The violations covered by Chapter 401 include possession of a controlled dangerous substance, drug paraphernalia offenses, underage possession of alcohol, obtaining alcohol for underage consumption, and furnishing alcohol for or allowing underage consumption of alcohol.

Background: According to the Network for Public Health Law, as of December 15, 2014, 21 states and the District of Columbia have "Good Samaritan" laws to encourage

individuals to summon aid in the event of an overdose. **Exhibit 1** features common characteristics of these statutes.

Exhibit 1
Common Characteristics of Good Samaritan Statutes

Samaritan Must Act in Good Faith	Alaska, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Washington, and the District of Columbia
No Charge – Possession of Controlled Substance	California, Connecticut, Delaware, Georgia, Illinois, Louisiana, Massachusetts, Minnesota, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island, Vermont, Washington, and the District of Columbia
No Prosecution – Possession of Controlled Substance	Alaska, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Washington, Wisconsin, and the District of Columbia
No Charge – Controlled Substance Paraphernalia	California, Connecticut, Delaware, Georgia, Minnesota, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia
No Prosecution – Controlled Substance Paraphernalia	California, Colorado, Connecticut, Delaware, Georgia, Maryland, Minnesota, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Wisconsin, and the District of Columbia
Protection from Other Crimes	California, Colorado, Delaware, Georgia, Louisiana, Maryland, Minnesota, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, and the District of Columbia
Reporting Specified as a Mitigating Factor	Illinois, Indiana, Maryland, Minnesota, New Mexico, New York, Rhode Island, Vermont, Washington, and the District of Columbia

Source: Network for Public Health Law

Additional Information

Prior Introductions: None.

Cross File: SB 654 (Senator Muse) - Judicial Proceedings.

Information Source(s): Montgomery County, cities of Bowie and Takoma Park, Maryland State Commission on Criminal Sentencing Policy, Maryland Institute for Emergency Medical Services Systems, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Health and Mental Hygiene, Network for Public Health Law, Department of Legislative Services

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