

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 190
Judiciary

(Delegates Cardin and Atterbeary)

Criminal Procedure - Medical Emergency - Immunity

This bill alters provisions related to criminal immunity for providing, assisting, or seeking assistance for medical emergencies involving the ingestion or use of alcohol or drugs.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Pursuant to current law, 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.

A person who, in good faith, seeks, provides, or assists with the provision of medical assistance for a person reasonably believed to be experiencing a medical emergency after ingesting or using alcohol or drugs must be immune from criminal arrest, charge, or prosecution for specified violations if the related evidence was obtained solely as a result of the person's seeking, providing, or assisting with the provision of medical assistance.

Currently, the same immunity applies to a person *who reasonably believes* that the person is experiencing a medical emergency after ingesting or using alcohol or drugs. The bill specifies that this immunity applies to a person *who is experiencing* a medical emergency, rather than a person *who reasonably believes* that the person is experiencing a medical emergency.

The specified violations referenced above are §§ 5-601 (possessing or administering a controlled dangerous substance), 5-619 (drug paraphernalia), 5-620 (controlled paraphernalia), 10-114 (underage possession and consumption of alcohol), 10-116 (obtaining alcohol for underage consumption), and 10-117 (furnishing or allowing underage consumption of alcohol) of the Criminal Law Article.

Under the bill, the applicable violations are §§ 5-602 (distributing, possession with intent to distribute, or dispensing a controlled dangerous substance) and 10-114 (underage possession and consumption of alcohol) of the Criminal Law Article or a misdemeanor offense.

Under current law, 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. The bill extends application of this provision if the evidence of the violation was obtained solely as a result of the person *receiving* the provision of medical assistance.

Additional Information

Prior Introductions: Similar bills have been introduced during previous legislative sessions. HB 212 of 2021 received a hearing in the House Judiciary Committee, but no further action was taken. HB 738 of 2020 received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, SB 849, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Maryland Institute for Emergency Medical Services Systems; Baltimore City; Caroline, Howard, and Prince George's counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - January 12, 2022
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