**A** **BILL**

TO AMEND ARTICLE 19, CHAPTER 53, TITLE 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A PERSON WHO SEEKS MEDICAL ASSISTANCE FOR ANOTHER PERSON WHO APPEARS TO HAVE OVERDOSED, SO AS TO REQUIRE THE PERSON TO SEEK MEDICAL ASSISTANCE, TO PROHIBIT THE PERSON FROM TAMPERING WITH THE BODY OF A PERSON WHO APPEARS TO HAVE OVERDOSED, TO ESTABLISH ASSOCIATED CRIMINAL PENALTIES, AND TO ELIMINATE CERTAIN IMMUNITIES; AND BY ADDING SECTION 44‑130‑90 SO AS TO REQUIRE THE DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES TO DEVELOP A PUBLIC INFORMATION CAMPAIGN TO RAISE AWARENESS OF THE IMPORTANCE OF IMMEDIATELY CALLING FOR 911 EMERGENCY MEDICAL ASSISTANCE IN THE CASE OF A POSSIBLE OPIOID OVERDOSE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 19, Chapter 53, Title 44 of the 1976 Code is amended to read:

“Article 19

Drug or Alcohol‑Related Overdose Medical Treatment

Section 44‑53‑1910. As used in this article:

(1) ‘Controlled substance’ has the same meaning as provided in Section 44‑53‑110.

(2) ‘Drug or alcohol‑related overdose’ means an acute condition, including mania, hysteria, extreme physical illness, coma, or death resulting from the consumption or use of a controlled substance, alcohol, or another substance with which a controlled substance or alcohol was combined, that a layperson would reasonably believe to be a drug or alcohol overdose that requires medical assistance.

(3) ‘Seeks medical assistance’ means seeking medical assistance by contacting the 911 system, a law enforcement officer, or emergency services personnel.

Section 44‑53‑1920. (A) A person ~~who seeks~~ must seek medical assistance for another person who appears to be experiencing a drug or alcohol‑related overdose and must not tamper with the body of the person who appears to have overdosed. ~~may not be prosecuted for any of the offenses listed in subsection (B), if the evidence for prosecution was obtained as a result of the person seeking medical assistance for the apparent overdose on the premises or immediately after seeking medical assistance and the person:~~

~~(1)~~ ~~acted in good faith when seeking medical assistance, upon a reasonable belief that he was the first person to call for assistance;~~

~~(2)~~ ~~provided his own name to the 911 system or to a law enforcement officer upon arrival; and~~

~~(3)~~ ~~did not seek medical assistance during the course of the execution of an arrest warrant, search warrant, or other lawful search;~~

~~(B)~~ ~~A person who seeks medical assistance for another person in accordance with the requirements of subsection (A) may not be prosecuted for:~~

~~(1)~~ ~~dispensing or delivering a controlled substance in violation of Section 44‑53‑370(a), when the controlled substance is dispensed or delivered directly to the person who appears to be experiencing a drug‑related overdose;~~

~~(2)~~ ~~possessing a controlled substance in violation of Section 44‑53‑370(c);~~

~~(3)~~ ~~possessing less than one gram of methamphetamine or cocaine base in violation of Section 44‑53‑375(A);~~

~~(4)~~ ~~dispensing or delivering methamphetamine or cocaine base in violation of Section 44‑53‑375(B), when the methamphetamine or cocaine base is dispensed or delivered directly to the person who appears to be experiencing a drug‑related overdose;~~

~~(5)~~ ~~possessing paraphernalia in violation of Section 44‑53‑391;~~

~~(6)~~ ~~selling or delivering paraphernalia in violation of Section 44‑53‑391, when the sale or delivery is to the person who appears to be experiencing a drug‑related overdose;~~

~~(7)~~ ~~purchasing, attempting to purchase, consuming, or knowingly possessing alcoholic beverages in violation of Section 63‑19‑2440;~~

~~(8)~~ ~~transferring or giving to a person under the age of twenty‑one years for consumption beer or wine in violation of Section 61‑4‑90; or~~

~~(9)~~  ~~contributing to the delinquency of a minor in violation of Section 16‑17‑490.~~

~~(C)~~ ~~If the person seeking medical assistance pursuant to this section previously has sought medical assistance for another person pursuant to this article, the court may consider the circumstances of the prior incidents and the related offenses to determine whether to grant the person immunity from prosecution.~~

~~(D)~~ ~~A person described in this section must use his or her own name when contacting authorities, fully cooperate with law enforcement and medical personnel, and must remain with the individual needing medical assistance until help arrives.~~

(B) For purposes of this section, ‘tamper with’ means to commit any malicious act to a dead or unconscious human being including, but not limited to, disfiguring, dismembering, mutilating, burning, or moving the body, except moving a body in good faith to protect the person from additional injury or death.

(C) A person who violates a provision of this section is guilty of a felony and, upon conviction, must be imprisoned not more than ten years.

Section 44‑53‑1930. (A) A person who experiences a drug or alcohol‑related overdose and is in need of medical assistance may not be prosecuted for any of the following offenses ~~listed in Section 44‑53‑1920~~ if the evidence for prosecution was obtained as a result of the drug or alcohol‑related overdose and need for medical assistance:

(1) dispensing or delivering a controlled substance in violation of Section 44‑53‑370(a), when the controlled substance is dispensed or delivered directly to the person who appears to be experiencing a drug‑related overdose;

(2) possessing a controlled substance in violation of Section 44‑53‑370(c);

(3) possessing less than one gram of methamphetamine or cocaine base in violation of Section 44‑53‑375(A);

(4) dispensing or delivering methamphetamine or cocaine base in violation of Section 44‑53‑375(B), when the methamphetamine or cocaine base is dispensed or delivered directly to the person who appears to be experiencing a drug‑related overdose;

(5) possessing paraphernalia in violation of Section 44‑53‑391;

(6) selling or delivering paraphernalia in violation of Section 44‑53‑391, when the sale or delivery is to the person who appears to be experiencing a drug‑related overdose;

(7) purchasing, attempting to purchase, consuming, or knowingly possessing alcoholic beverages in violation of Section 63‑19‑2440;

(8) transferring or giving to a person under the age of twenty‑one years for consumption beer or wine in violation of Section 61‑4‑90; or

(9) contributing to the delinquency of a minor in violation of Section 16‑17‑490.

(B) A person described in Section 44‑53‑1920 must use his or her own name when contacting authorities, and fully cooperate with law enforcement and medical personnel.

Section 44‑53‑1940. The court may consider a person’s decision to seek medical assistance pursuant to Section ~~44‑53‑1920(A) or~~ 44‑53‑1930 as a mitigating factor in a criminal prosecution or sentencing for a drug or alcohol‑related offense that is not an offense listed in Section ~~44‑53‑1920(B)~~ 44‑53‑1930(A).

Section 44‑53‑1950. This article does not prohibit a person who seeks medical assistance pursuant to Section 44‑53‑1930 from being arrested, charged, or prosecuted, or from having his supervision status modified or revoked, based on an offense other than an offense listed in Section ~~44‑53‑1920(B)~~ 44‑53‑1930(A), whether or not the offense arises from the same circumstances for which the person sought medical assistance.

Section 44‑153‑1960. Nothing in this article may be construed to:

(1) limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regard ~~to a defendant who does not qualify for the protections of Section 44‑53‑1920(A) or with regard~~ to other crimes committed by a person who otherwise qualifies for protection pursuant to ~~Section 44‑53‑1920(A) or~~ Section 44‑53‑1930;

(2) limit any seizure of evidence or contraband otherwise permitted by law; or

(3) limit or abridge the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effect an arrest for any offense, except as provided in ~~Section 44‑53‑1920(A) or~~ Section 44‑53‑1930.

Section 44‑53‑1970. A law enforcement officer who arrests a person for an offense listed in Section ~~44‑53‑1920(B)~~ 44‑53‑1930(A) is not subject to criminal prosecution, or civil liability, for false arrest or false imprisonment if the officer made the arrest based on probable cause.”

SECTION 2. Chapter 130, Title 44 of the 1976 Code is amended by adding:

“Section 44‑130‑90. The Department of Alcohol and Other Drug Abuse Services shall develop a public information campaign to raise awareness of the importance of immediately calling for 911 emergency medical assistance if a person has overdosed on a substance containing legal or illegal opioids and the limited immunities afforded a person seeking assistance for himself under Article 19, Chapter 53, Title 44. The department may collaborate with other state and local agencies, community distributors, and the business community to develop an effective strategy whose message and information reaches those at risk of overdosing and persons who may be bystanders of those experiencing an overdose. In addition to disseminating the public information through print or digital media and on a publicly accessible website, the department shall ensure that advertisements for the public information campaign are prominently displayed throughout the State on billboards, trash cans, and in public bathrooms in areas where data shows that overdoses are more likely to occur. The department shall apply for federal funding that may be available to pay for the costs associated with the public information campaign.”

SECTION 3. This act takes effect upon approval by the Governor.

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