

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 546

(Senators Muse and Smith)

Judicial Proceedings

Judiciary

Criminal Procedure - Medical Emergency - Immunity

This bill alters provisions related to criminal immunity and sanctions for violations of pretrial release, probation, or parole for individuals who seek, provide, or assist with the provision of medical 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 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 to a person who is experiencing a medical emergency after ingesting or using alcohol or drugs 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 legislation has been introduced within the last three years. See HB 190 of 2022; HB 212 of 2021; and HB 738 and SB 849 of 2020.

Designated Cross File: HB 427 (Delegate Cardin, *et al.*) - Judiciary.

Information Source(s): Baltimore and Montgomery counties; Town of Bel Air; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2023
js/jkb Third Reader - March 20, 2023

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