COMMITTEE REPORT

March 7, 2017

**S. 179**

Introduced by Senators Hutto and Hembree

S. Printed 3/7/17--S.

Read the first time January 10, 2017.

**THE COMMITTEE ON MEDICAL AFFAIRS**

To whom was referred a Bill (S. 179) to amend the Code of Laws of South Carolina, 1976, by adding Article 19 to Chapter 53, Title 44 so as to provide limited immunity from prosecution for certain drug, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 2, by striking lines 11-19 and inserting:

/ Section 44‑53‑1920. (A) Except as otherwise provided in subsection (B), a person acting in good faith who seeks medical assistance from an emergency room, outpatient medical clinic, the 911 system or other medical facility, for another person who appears to be experiencing a drug or alcohol‑related overdose may not be prosecuted, if the evidence for prosecution was solely obtained as a result of the person seeking medical assistance for the apparent overdose for: /

Amend the bill further, beginning on page 2 by striking lines 40-42, and on page 3 by striking lines 1-19 and inserting:

/ 63‑19‑2440; or

(8) contributing to the delinquency of a minor in violation of Section 16‑17‑490 based solely upon the provision of a controlled substance to the minor in need of medical assistance.

(B) If the person seeking medical assistance pursuant to subsection (A) 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.

(C) A person described in subsection (A) 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.

Section 44‑53‑1930. (A) A person who experiences a drug or alcohol‑related overdose, is in need of medical assistance and who requests medical assistance from an emergency room, outpatient medical clinic, the 911 system, or other medical facility may not be prosecuted for any of the offenses listed in Section 44‑53‑1920 if the evidence for prosecution was solely obtained as a result of the drug or alcohol‑related overdose and need for medical assistance.

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

Amend the bill further, page 4, by striking line 2 and inserting:

/ cause.

Section 44-53-1980. Nothing in this article shall be construed to limit any seizure of evidence or contraband otherwise permitted by law.” /

Renumber sections to conform.

Amend title to conform.

HARVEY S. PEELER, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 10, 2017**

**State Expenditure**

This bill provides limited immunity from prosecution for specified drug and alcohol-related offenses committed by someone who seeks medical assistance for another person who is experiencing a drug or alcohol-related overdose, or by someone who himself is experiencing a drug or alcohol-related overdose and seeks medical assistance; allows the court to consider seeking assistance as a mitigating factor in proceedings related to other criminal offenses; and provides law enforcement officers civil and criminal immunity for false arrest or false imprisonment, if the arrest was for an offense to which limited immunity applies and was based on probable cause.

The Judicial Department reports that there were approximately 3,347 convictions in General Sessions court in FY 2015-16 related to the offenses under which limited immunity may be sought. However, there is no data to determine the number of convictions against persons who sought medical assistance for themselves or another person. In addition, no data exists to indicate the number of convictions for which seeking medical assistance could have been a mitigating factor or to indicate the extent to which punishment might have been reduced. Therefore, the expenditure impact of this bill on the general fund and other funds is undetermined.

**State Revenue**

Data is not available to determine the effect the bill’s provisions regarding limited immunity or mitigation would have on convictions and sentencing for certain drug and alcohol offenses. Therefore, the revenue impact of this bill on the general fund and other funds is undetermined.

**Local Expenditure**

Because data is not available to project the effect of immunity from prosecution and mitigation of punishment, the expenditure impact on local government is undetermined.

**Local Revenue**

The revenue impact of this bill on local government is undetermined because data is unavailable to project the impact immunity or mitigation would have on convictions and sentencing.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 19 TO CHAPTER 53, TITLE 44 SO AS TO PROVIDE LIMITED IMMUNITY FROM PROSECUTION FOR CERTAIN DRUG AND ALCOHOL‑RELATED OFFENSES COMMITTED BY A PERSON WHO SEEKS MEDICAL ASSISTANCE FOR ANOTHER PERSON WHO IS EXPERIENCING A DRUG OR ALCOHOL‑RELATED OVERDOSE OR BY A PERSON WHO IS EXPERIENCING A DRUG OR ALCOHOL‑RELATED OVERDOSE AND SEEKS MEDICAL ASSISTANCE, TO ALLOW THE COURT TO CONSIDER AS A MITIGATING FACTOR IN PROCEEDINGS RELATED TO OTHER CRIMINAL OFFENSES WHETHER THE PERSON SOUGHT MEDICAL ASSISTANCE FOR A PERSON EXPERIENCING AN OVERDOSE, TO LIMIT THE IMMUNITY TO ALLOW PROSECUTION OF A PERSON FOR OTHER CRIMES ARISING OUT OF THE DRUG OR ALCOHOL‑RELATED OVERDOSE, TO ALLOW FOR ADMISSIBILITY OF CERTAIN EVIDENCE, TO PROVIDE CIVIL AND CRIMINAL IMMUNITY FOR LAW ENFORCEMENT OFFICERS RELATING TO THE ARREST OF A PERSON LATER DETERMINED TO QUALIFY FOR LIMITED IMMUNITY, AND FOR OTHER PURPOSES.

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

SECTION 1. Chapter 53, Title 44 of the 1976 Code is amended by adding:

“Article 19

Drug or Alcohol‑Related Overdose Medical Treatment

Section 44‑53‑1910. As used in this article, ‘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.

Section 44‑53‑1920. (A) Except as otherwise provided in subsection (B), a person acting in good faith who seeks medical assistance from an emergency room, outpatient medical clinic, or other medical facility, for another person who appears to be experiencing a drug or alcohol‑related overdose may not be prosecuted, if the evidence for prosecution was obtained as a result of the person seeking medical assistance for the apparent overdose on the premises of or immediately after calling the emergency room, outpatient medical clinic, or other medical facility, 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) selling alcoholic beverages to a person under twenty‑one years of age in violation of Section 61‑4‑50;

(9) purchasing beer or wine to give to a person to whom beer or wine cannot legally be sold in violation of Section 61‑4‑80;

(10) 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

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

(B) If the person seeking medical assistance pursuant to subsection (A) 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.

Section 44‑53‑1930. 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 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.

Section 44‑53‑1940. The court may consider a person’s decision to seek medical assistance pursuant to Section 44‑53‑1920 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.

Section 44‑53‑1950. This article does not prohibit a person 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, whether or not the offense arises from the same circumstances for which the person sought medical assistance.

Section 44‑53‑1960. Nothing in this section bars the admissibility of evidence obtained in connection with the investigation and prosecution of other crimes committed by a person who otherwise qualifies for limited immunity pursuant to this article.

Section 44‑53‑1970. A law enforcement officer who arrests a person for an offense listed in Section 44‑53‑1920 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. This act takes effect upon approval by the Governor.

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