**South Carolina General Assembly**

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**H. 5121**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. J.E. Smith

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Introduced in the House on March 16, 2016

Currently residing in the House Committee on **Judiciary**

Summary: Immunity from certain charges for person who seeks medical assistance for a drug overdose

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/16/2016 House Introduced and read first time ([House Journal‑page 8](file:///h:\HJ%20Archive\2016\03-16-16.docx))

3/16/2016 House Referred to Committee on **Judiciary** ([House Journal‑page 46](file:///h:\HJ%20Archive\2016\03-16-16.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=5121&session=121&summary=B) at the website

**VERSIONS OF THIS BILL**

[3/16/2016](file:///p:\pprever\2015-16\5121_20160316.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44‑53‑595 SO AS TO PROVIDE IMMUNITY FROM CERTAIN CHARGES RELATED TO CONTROLLED SUBSTANCES AND DANGEROUS DRUGS FOR A PERSON WHO SEEKS MEDICAL ASSISTANCE FOR A DRUG OVERDOSE; BY ADDING ARTICLE 20 TO CHAPTER 53, TITLE 44 SO AS TO DEFINE NECESSARY TERMS, TO ALLOW A FIRST RESPONDER TO ADMINISTER AN OPIOID ANTAGONIST IN CERTAIN CIRCUMSTANCES, TO PROVIDE PROTECTIONS FOR A FIRST RESPONDER WHO PROVIDES AN OPIOID ANTAGONIST, TO ALLOW A PRACTITIONER TO PRESCRIBE AN OPIOID ANTAGONIST IN CERTAIN CIRCUMSTANCES, TO PERMIT A PHARMACIST TO PRESCRIBE OPIOID ANTAGONISTS, TO ALLOW A PERSON OTHER THAN A PRACTITIONER OR FIRST RESPONDER TO ADMINISTER AN OPIOID ANTAGONIST, TO PROVIDE IMMUNITY FROM PROFESSIONAL SANCTIONS, CIVIL LIABILITY AND CRIMINAL LIABILITY FOR INDIVIDUALS IN CERTAIN CIRCUMSTANCES; AND BY ADDING SECTION 63‑19‑2470 SO AS TO PROVIDE IMMUNITY FROM CERTAIN CHARGES RELATED TO THE UNLAWFUL PURCHASE, CONSUMPTION, OR POSSESSION OF ALCOHOL BY A PERSON UNDER AGE TWENTY‑ONE FOR A PERSON WHO SEEKS MEDICAL ASSISTANCE FOR AN ALCOHOL‑RELATED OVERDOSE.

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

SECTION 1. Article 3, Chapter 53, Title 44 of the 1976 Code is amended by adding:

“Section 44‑53‑595. (A) As used in this section, the term:

(1) ‘Drug overdose’ means an acute condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, resulting from the consumption or use of a controlled substance or dangerous drug for which medical assistance is required.

(2) ‘Drug violation’ means:

(a) 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;

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

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

(d) 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;

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

(f) 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.

(3) ‘Medical assistance’ means aid provided to a person believed to be experiencing a drug overdose by a practitioner who, when acting within his lawful scope of practice, may provide diagnosis, treatment, or emergency services related to a drug overdose.

(4) ‘Seeks medical assistance’ means accessing or assisting in accessing the 9‑1‑1 system, contacting or assisting in contacting law enforcement or a poison control center, or providing care to a person experiencing or believed to be experiencing a drug overdose while awaiting the arrival of medical assistance.

(B) A person who, in good faith, seeks medical assistance for someone who is experiencing a drug overdose may not be arrested, charged, or prosecuted for a drug violation if the evidence for the arrest, charge, or prosecution resulted from seeking medical assistance. A person who seeks medical assistance for himself may not be arrested, charged, or prosecuted for a drug violation if the evidence for the arrest, charge, or prosecution resulted from seeking medical assistance. In addition, a person who seeks medical assistance pursuant to the provisions of this section is not subject to sanctions for a violation of a condition of pretrial release, condition or probation, or condition of parole based on a drug violation.

(C) Nothing in this section may be construed to limit the admissibility of evidence obtained in connection with the investigation for prosecution of a crime with regard to a defendant who does not qualify for the protections of this section or with regard to other crimes committed by a person who qualifies for protection pursuant to this section. Nothing in this section may be construed to limit the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in this section.”

SECTION 2. Chapter 53, Title 44 of the 1976 Code is amended by adding:

“Article 20

Opioids

Section 44‑53‑1900. As used in this section, the term:

(1) ‘First responder’ means any person or agency who provides on‑site care until the arrival of a duly licensed ambulance service. This includes, but is not limited to, persons who routinely respond to calls for assistance through an affiliation with law enforcement agencies, fire departments, and rescue agencies.

(2) ‘Harm‑reduction organization’ means an organization which provides direct assistance and services, such as syringe exchanges, counseling, homeless services, advocacy, drug treatment, and screening to individuals at risk of experiencing an opioid‑related overdose.

(3) ‘Opioid antagonist’ means any drug that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors and that is approved by the federal Food and Drug Administration for the treatment of an opioid‑related overdose.

(4) ‘Opioid‑related overdose’ means an acute condition, including, but not limited, to extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, resulting from the consumption or use of an opioid or another substance with which an opioid was combined or that a layperson would reasonably believe to be resulting from the consumption or use of an opioid or another substance with which an opioid was combined.

Section 44‑53‑1910. (A) An opioid antagonist may be administered or provided by any first responder for the purpose of saving the life of a person experiencing an opioid‑related overdose.

(B) All first responders who have access to or maintain a supply of opioid antagonists shall obtain appropriate training to ensure safe application of an opioid antagonist.

(C) All law enforcement agencies, fire departments, rescue agencies, and other similar entities shall notify the Department of Health and Environmental Control of the possession and maintenance of opioid antagonists by its personnel.

(D) A first responder who administers or provides an opioid antagonist to a patient shall create a report that must be made available to the licensed ambulance service that transports the patient within a reasonable period of time.

Section 44‑53‑1920. A first responder who in good faith renders emergency care or treatment by administering or providing an opioid antagonist is not liable for any civil damages that arise as a result of the care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts without gross negligence, an intention to harm the patient, or as a reasonably prudent person would have acted under the same or similar circumstances. This protection applies even if the first responder had not received the appropriate training and paid persons who extend care or treatment without expectation of remuneration from the patient or victim for receiving the opioid antagonist.

Section 44‑53‑1930. A practitioner acting in good faith and in compliance with the standard of care applicable to that practitioner may prescribe an opioid antagonist for use in accordance with the protocol specified by the practitioner to a person at risk of experiencing an opioid‑related overdose or to a first responder, harm‑reduction organization, family member, friend, or other person in a position to assist a person at risk of experiencing an opioid‑related overdose.

Section 44‑53‑1940. A pharmacist acting in good faith and in compliance with the standard of care applicable to pharmacists may dispense opioid antagonists pursuant to a prescription issued in accordance with the provisions of Chapter 43, Title 40.

Section 44‑53‑1950. A person acting in good faith and with reasonable care to another person whom he believes to be experiencing an opioid‑related overdose may administer an opioid antagonist that was prescribed pursuant to this article in accordance with the protocol specified by the practitioner.

Section 44‑53‑1960. The following individuals are immune from professional licensing sanctions and civil or criminal liability for the following actions authorized by this article:

(1) a practitioner acting in good faith and in compliance with the standard of care applicable to that practitioner who prescribes an opioid antagonist pursuant to this article;

(2) a practitioner or pharmacist acting in good faith and in compliance with the applicable standard of care who dispenses an opioid antagonist pursuant to a prescription authorized by this article; and

(3) a person, other than a practitioner, acting in good faith who administers an opioid antagonist pursuant to this article.”

SECTION 3. Article 23, Chapter 19, Title 63 of the 1976 Code is amended by adding:

“Section 63‑19‑2470. (A) As used in this section, the term:

(1) ‘Alcohol‑related overdose’ means an acute condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, resulting from the consumption or use of alcohol for which medical assistance is required.

(2) ‘Medical assistance’ means aid provided to a person believed to be experiencing an alcohol‑related overdose by a health care professional licensed, registered, or certified under the laws of this State who, when acting within his lawful scope of practice, may provide diagnosis, treatment, or emergency services related to an alcohol‑related overdose.

(3) ‘Seeks medical assistance’ means accessing or assisting in accessing the 9‑1‑1 system, contacting or assisting in contacting law enforcement or a poison control center, or providing care to a person experiencing or believed to be experiencing an alcohol‑related overdose while awaiting the arrival of medical assistance.

(B) A person who, in good faith, seeks medical assistance for someone who is experiencing an alcohol‑related overdose may not be arrested, charged, or prosecuted for a violation of Section 63‑19‑2440 or 63‑19‑2450 if the evidence for the arrest, charge, or prosecution resulted from seeking medical assistance. A person who is experiencing an alcohol‑related overdose and, in good faith, seeks medical assistance for himself may not be arrested, charged or prosecuted for a violation of Section 63‑19‑2440 or 63‑19‑2450 if the evidence for the arrest, charge, or prosecution resulted from seeking medical assistance. In addition, a person who seeks medical assistance pursuant to the provisions of this section is not subject to sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole based on a violation of Section 63‑19‑2440 or 63‑19‑2450.

(C) Nothing in this section may be construed to limit the admissibility of evidence obtained in connection with the investigation for prosecution of a crime with regard to a defendant who does not qualify for the protections of this section or with regard to other crimes committed by a person who qualifies for protection pursuant to this section. Nothing in this section may be construed to limit the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in this section.”

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. This act takes effect upon approval by the Governor.

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