

SPONSOR: Sen. Cloutier & Sen. Townsend & Sen. Hall-Long & Rep. Keeley & Rep. Barbieri & Rep. Mulrooney;
Sens. Blevins, Henry, Lavelle, Peterson, Pettyjohn, Poore, Sokola, Venables, McDowell; Reps. Bolden, Kowalko, Osienski, Paradee, Ramone

DELAWARE STATE SENATE

147th GENERAL ASSEMBLY

SENATE BILL NO. 116
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO SEEKING HELP FOR AN ALCOHOL OR DRUG OVERDOSE OR OTHER LIFE THREATENING MEDICAL EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subchapter IV, Chapter 47, Title 16, Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§ 4769. Criminal immunity for persons who suffer or report an alcohol or drug overdose or other life threatening medical emergency.

(a) For purposes of this chapter:

(1) "Medical provider" means the person whose professional services are provided to a person experiencing an overdose or other life threatening medical emergency by a licensed, registered or certified health care professional who, acting within his or her lawful scope of practice, may provide diagnosis, treatment or emergency services.

(2) "Overdose" means an acute condition including, but not limited to, physical illness, coma, mania, hysteria, or death resulting from the consumption or use of an ethyl alcohol, a controlled substance, another substance with which a controlled substance was combined, a noncontrolled prescription drug, or any combination of these, including any illicit or licit substance; provided that a person's condition shall be deemed to be an overdose if a layperson could reasonably believe that the condition is in fact an overdose and requires medical assistance.

(b) A person who is experiencing an overdose or other life threatening medical emergency and anyone (including the person experiencing the emergency) seeking medical attention for that person shall not be arrested, charged or

SR : CLC : ap:0361470483
LC : MJC : RAY:4801470028

prosecuted for an offense for which they have been granted immunity pursuant to subsection (c) and/or (d) of this section, or subject to the revocation or modification of the conditions of probation, if:

(1) The person seeking medical attention reports in good faith the emergency to law enforcement, the 911 system, a poison control center, or to a medical provider, or if the person in good faith assists someone so reporting; and

(2) The person provides all relevant medical information as to the cause of the overdose or other life threatening medical emergency that the person possesses at the scene of the event when a medical provider arrives, or when the person is at the facilities of the medical provider.

(c) The immunity granted shall apply to all offenses in this Chapter that are not class A, B, or C felonies, including but not limited to the following offenses:

(1) Miscellaneous drug crimes as described in § 4757 (a)(3), (6), and (7) of this Chapter;

(2) Illegal possession and delivery of noncontrolled prescription drugs as described in § 4761 of this Chapter;

(3) Possession of controlled substances or counterfeit controlled substances, as described in § 4763 of this Chapter;

(4) Possession of drug paraphernalia as described in §§ 4762 (c) and 4771 of this Chapter;

(5) Possession of marijuana as described in § 4764 of this Chapter.

(d) The immunity granted shall apply to offenses relating to underage drinking as described in Title 4, § 904 (b), (c), (e), and (f).

(e) Nothing in this section shall be interpreted to prohibit the prosecution of a person for an offense other than an offense for which they have been granted immunity pursuant to subsection (c) and/or (d) of this section or to limit the ability of the attorney general or a law enforcement officer to obtain or use evidence obtained from a report, recording, or any other statement provided pursuant to subsection (b) of this section to investigate and prosecute an offense other than an offense for which they have been granted immunity pursuant to subsection (c) and/or (d) of this section.

(f) Forfeiture of any alcohol, substance, or paraphernalia referenced in this section shall be allowed pursuant to § 4784 of this Title and Chapter 11 of Title 4.

Section 2. This Act may be cited as the Kristen L. Jackson & John M. Perkins, Jr. Act.

Section 3. Effective Date. This Act shall take effect 60 days after its enactment into law.

SR : CLC : ap:0361470483
LC : MJC : RAY:4801470028