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

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 seeks medical attention for someone, including the person reporting, who is experiencing an overdose or other life threatening medical emergency shall not be arrested, charged or prosecuted for an offense described in subsection (c) of this section, or subject to the revocation or modification of the conditions of probation, if:

(1) The person 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 described in this section shall apply 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; and

(6) Offenses concerning underage drinking as described in Title 4, § 904 (b), (c), (e), and (f).

(d) It shall be an affirmative defense to a drug dealing charge as defined in §§ 4752 and 4753 of this Chapter with respect to good faith seeking of health care for an emergency which arose proximate to the offense.

(e) Nothing in this section shall be interpreted to prohibit the prosecution of a person for an offense other than an offense listed in subsection (c) 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 listed in subsection (c) 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.

SYNOPSIS

No person who suffers an alcohol or drug overdose or other life threatening condition should die because of fear of criminal charges. It is within Delaware's best interests to encourage reporting dangerous situations where they occur as not only does it save lives, but it also allows those persons saved to seek the treatment and assistance needed to regain a healthy lifestyle and be productive citizens and neighbors. This Act shall be known as the Kristen L. Jackson & John M. Perkins, Jr. Law. On January 31, 2012 Kristen L. Jackson passed away at the age of 23 years old. On May 5, 2011, John M. Perkins, Jr. passed away at the age of 30 years old. If the Good Samaritan 911 Law had been in effect the outcome may have been different. We hope in passing this law that it will save other parents from the pain their parents have endured.

Author: Sen. Cloutier