

1 SENATE BILL 441

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Richard C. Martinez

5
6
7
8
9
10 AN ACT

11 RELATING TO PUBLIC HEALTH; AMENDING A SECTION OF THE CONTROLLED
12 SUBSTANCES ACT AND ENACTING A NEW SECTION OF CHAPTER 60,
13 ARTICLE 7B NMSA 1978 TO PROVIDE FURTHER IMMUNITY TO PERSONS WHO
14 SEEK MEDICAL ASSISTANCE IN CASES OF ALCOHOL OR DRUG OVERDOSE.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 30-31-27.1 NMSA 1978 (being Laws 2007,
18 Chapter 260, Section 1) is amended to read:

19 "30-31-27.1. OVERDOSE PREVENTION--LIMITED IMMUNITY.--

20 A. A person who, in good faith, seeks medical
21 assistance for someone experiencing [~~a~~] an alcohol- or drug-
22 related overdose shall not be arrested, charged [~~or~~],
23 prosecuted or otherwise penalized, nor shall the property of
24 the person be subject to civil forfeiture, for [~~possession of a~~
25 controlled substance pursuant to] violating any of the

.198367.1

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 following if the evidence for the alleged violation was gained
2 as a result of the seeking of medical assistance:

3 (1) violating the provisions of Section
4 30-31-23 NMSA 1978 or Subsection A of Section 30-31-25.1 NMSA
5 1978 [if the evidence for the charge of possession of a
6 controlled substance was gained as a result of the seeking of
7 medical assistance];

8 (2) violating a restraining order; or

9 (3) the violation of probation or parole.

10 B. A person who experiences [a] an alcohol- or
11 drug-related overdose and is in need of medical assistance
12 shall not be arrested, charged [or], prosecuted or otherwise
13 penalized, nor shall the property of the person be subject to
14 civil forfeiture, for [possession of a controlled substance
15 pursuant to] violating any of the following if the evidence for
16 the alleged violation was gained as a result of the overdose
17 and the need for seeking medical assistance:

18 (1) violating the provisions of Section
19 30-31-23 NMSA 1978 or Subsection A of Section 30-31-25.1 NMSA
20 1978 [if the evidence for the charge of possession of a
21 controlled substance was gained as a result of the overdose and
22 the need for medical assistance];

23 (2) violating a restraining order; or

24 (3) the violation of probation or parole.

25 C. The act of seeking medical assistance for

.198367.1

underscored material = new
[bracketed material] = delete

1 someone who is experiencing [~~a~~] an alcohol- or drug-related
2 overdose may be used as a mitigating factor in a criminal
3 prosecution pursuant to the Controlled Substances Act for which
4 immunity is not provided pursuant to this section.

5 D. For the purposes of this section, "seeking
6 medical assistance" means:

7 (1) reporting an alcohol- or drug-related
8 overdose or other medical emergency to law enforcement, the 911
9 system or another emergency dispatch system, a poison control
10 center or a health care provider; or

11 (2) assisting an individual who is reporting
12 an alcohol- or drug overdose or providing care to an individual
13 who is experiencing an alcohol- or drug-related overdose or
14 other medical emergency while awaiting the arrival of a health
15 care provider."

16 SECTION 2. A new section of Chapter 60, Article 7B NMSA
17 1978 is enacted to read:

18 "[NEW MATERIAL] SUBSTANCE-RELATED POISONING PREVENTION--
19 LIMITED IMMUNITY.--

20 A. A person who, in good faith, seeks medical
21 assistance for someone experiencing an alcohol- or drug-related
22 overdose shall not be arrested, charged, prosecuted or
23 otherwise penalized, nor shall the property of the person be
24 subject to civil forfeiture, for violating any of the following
25 if the evidence for the alleged violation was gained as a

.198367.1

1 result of the seeking of medical assistance:

2 (1) violating the provisions of Section
3 60-7B-1 or 60-7B-9 NMSA 1978;

4 (2) violating a restraining order; or

5 (3) the violation of probation or parole.

6 B. A person who experiences an alcohol- or drug-
7 related overdose and is in need of medical assistance shall not
8 be arrested, charged, prosecuted or otherwise penalized, nor
9 shall the property of the person be subject to civil
10 forfeiture, for violating any of the following if the evidence
11 for the alleged violation was gained as a result of the
12 overdose and the need for seeking of medical assistance:

13 (1) violating the provisions of Section
14 60-7B-1 or 60-7B-9 NMSA 1978;

15 (2) violating a restraining order; or

16 (3) the violation of probation or parole.

17 C. The act of seeking medical assistance for
18 someone who is experiencing an alcohol- or drug-related
19 overdose may be used as a mitigating factor in a criminal
20 prosecution pursuant to the Liquor Control Act for which
21 immunity is not provided pursuant to this section.

22 D. For the purposes of this section, "seeking
23 medical assistance" means:

24 (1) reporting an alcohol- or drug-related
25 overdose or other medical emergency to law enforcement, the 911

.198367.1

underscoring material = new
~~[bracketed material] = delete~~

1 system or another emergency dispatch system, a poison control
2 center or to an health care provider; or

3 (2) assisting an individual who is reporting
4 an alcohol- or drug-related overdose or providing care to an
5 individual who is experiencing an alcohol- or drug-related
6 overdose or other medical emergency while awaiting the arrival
7 of a health care provider."

8 - 5 -