

1 SENATE BILL 282

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Richard C. Martinez and Carlos R. Cisneros

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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-RELATED
15 OVERDOSE.

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17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

20 "30-31-27.1. OVERDOSE PREVENTION--LIMITED IMMUNITY.--

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

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1 ~~controlled substance pursuant to~~ violating any of the
2 following if the evidence for the alleged violation was gained
3 as a result of the seeking of medical assistance:

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

9 (2) violating a restraining order; or

10 (3) the violation of probation or parole.

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

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

24 (2) violating a restraining order; or

25 (3) the violation of probation or parole.

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underscoring material = new
[bracketed material] = delete

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

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

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

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

17 SECTION 2. A new section of Chapter 60, Article 7B NMSA
18 1978 is enacted to read:

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

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

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

3 (1) violating the provisions of Section
4 60-7B-1 or 60-7B-9 NMSA 1978;

5 (2) violating a restraining order; or

6 (3) the violation of probation or parole.

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

14 (1) violating the provisions of Section
15 60-7B-1 or 60-7B-9 NMSA 1978;

16 (2) violating a restraining order; or

17 (3) the violation of probation or parole.

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

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

25 (1) reporting an alcohol- or drug-related

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

1 overdose or other medical emergency to law enforcement, the 911
2 system or another emergency dispatch system, a poison control
3 center or to a health care provider; or

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