

HOUSE BILL NO. 161

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Seibold)

A BILL to amend and reenact § 18.2-251.03 of the Code of Virginia, relating to arrest, prosecution, and disciplinary or administrative procedures and penalties for individuals experiencing or reporting overdoses while incarcerated.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-251.03 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-251.03. Arrest, prosecution, and disciplinary or administrative procedures and penalties when experiencing or reporting overdoses.**

A. For purposes of this section, "overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. ~~No~~ Except as otherwise provided in subsection C, no individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana pursuant to § 4.1-1105.1, possession of a controlled substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

- 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose; (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith, renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the

27 administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing  
28 an overdose while another individual seeks or obtains emergency medical attention in accordance with  
29 this subdivision;

30         2. Such individual remains at the scene of the overdose or at any alternative location to which he  
31 or the person requiring emergency medical attention has been transported until a law-enforcement officer  
32 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose  
33 or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set  
34 forth herein;

35         3. Such individual identifies himself to the law-enforcement officer who responds to the report of  
36 the overdose; and

37         4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a  
38 result of the individual seeking or obtaining emergency medical attention or rendering emergency care or  
39 assistance.

40         C. No individual incarcerated in a local, regional, or state correctional facility shall be subject to  
41 arrest, prosecution, or disciplinary or administrative procedures or penalties for the unlawful purchase,  
42 possession, or consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or  
43 consumption of marijuana pursuant to § 4.1-1105.1, possession of a controlled substance pursuant to §  
44 18.2-250, procurement, sale, secretion, or possession of any chemical compound that he has not lawfully  
45 received pursuant to subdivision 5 of § 53.1-203, procurement, sale, secretion, or possession of a  
46 controlled substance classified in Schedule III of the Drug Control Act (§ 54.1-3400 et seq.) or marijuana  
47 pursuant to subdivision 6 of § 53.1-203, intoxication in public pursuant to § 18.2-388, or possession of  
48 controlled paraphernalia pursuant to § 54.1-3466 if such individual (i) in good faith, seeks or obtains  
49 emergency medical attention (a) for himself, if he is experiencing an overdose, or (b) for another  
50 individual, if such other individual is experiencing an overdose; (ii) is experiencing an overdose and  
51 another individual, in good faith, seeks or obtains emergency medical attention for such individual, by  
52 contemporaneously reporting such overdose to an employee or volunteer of a local, regional, or state  
53 correctional facility; or (iii) in good faith, renders emergency care or assistance, including

54 cardiopulmonary resuscitation (CPR), to an individual experiencing an overdose while another individual  
55 seeks or obtains emergency medical attention in accordance with this subsection.

56 D. The provisions of this section shall not apply to any person who seeks or obtains emergency  
57 medical attention for himself or another individual, to a person experiencing an overdose when another  
58 individual seeks or obtains emergency medical attention for him, or to a person who renders emergency  
59 care or assistance to an individual experiencing an overdose while another person seeks or obtains  
60 emergency medical attention during the execution of a search warrant or during the conduct of a lawful  
61 search or a lawful arrest.

62 ~~D.~~E. This section does not establish protection from arrest ~~or~~, prosecution, or disciplinary or  
63 administrative procedures or penalties for any individual or offense other than those listed in subsection  
64 B or C.

65 ~~E.~~F. No law-enforcement officer, correctional officer, deputy sheriff, or jail officer acting in good  
66 faith shall be found liable for false arrest if it is later determined that the person arrested was immune from  
67 prosecution or disciplinary or administrative procedures or penalties under this section.

68 #