

HOUSE BILL 1390

D3, E2

8lr2412

By: **Delegates Valderrama, Anderson, Carter, Dumais, Gutierrez, Lee, and Ramirez**

Introduced and read first time: February 8, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Limited Immunity – Alcohol or Drug–Related Overdose Incidents**

3 FOR the purpose of providing a certain person who seeks medical assistance for a
4 person experiencing an alcohol or drug–related overdose certain immunity from
5 civil liability or criminal prosecution under certain circumstances; providing
6 that a certain person who seeks medical assistance for a person experiencing an
7 alcohol or drug–related overdose may not be detained on or prosecuted in
8 connection with a certain warrant under certain circumstances; creating a
9 certain exception; providing a certain person experiencing an alcohol or
10 drug–related overdose certain immunity from criminal prosecution under
11 certain circumstances; providing that a certain person experiencing an alcohol
12 or drug–related overdose may not be detained on or prosecuted in connection
13 with a certain warrant under certain circumstances; providing that the act of
14 seeking medical assistance for a certain person may be used as a mitigating
15 factor in a certain criminal prosecution; and generally relating to limited
16 immunity for alcohol or drug–related overdose incidents.

17 BY adding to

18 Article – Courts and Judicial Proceedings

19 Section 5–642

20 Annotated Code of Maryland

21 (2006 Replacement Volume and 2007 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Courts and Judicial Proceedings**

25 **5–642.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) (1) A PERSON WHO, IN GOOD FAITH, SEEKS MEDICAL ASSISTANCE
2 FOR A PERSON EXPERIENCING AN ALCOHOL OR DRUG-RELATED OVERDOSE:

3 (I) SHALL BE IMMUNE FROM CIVIL LIABILITY OR CRIMINAL
4 PROSECUTION FOR POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE
5 UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE IF THE EVIDENCE FOR THE
6 CRIMINAL PROSECUTION WAS OBTAINED SOLELY AS A RESULT OF THE
7 PERSON'S SEEKING MEDICAL ASSISTANCE; AND

8 (II) MAY NOT BE DETAINED ON OR PROSECUTED IN
9 CONNECTION WITH AN OUTSTANDING WARRANT FOR ANOTHER NONVIOLENT
10 CRIME IF THE PERSON'S SEEKING MEDICAL ASSISTANCE IS THE REASON FOR
11 THE PERSON'S ENCOUNTER WITH LAW ENFORCEMENT.

12 (2) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO
13 PROVIDED THE ALCOHOL OR DRUGS CAUSING THE OVERDOSE TO THE PERSON
14 FOR WHOM MEDICAL ASSISTANCE IS SOUGHT.

15 (B) A PERSON WHO EXPERIENCES AN ALCOHOL OR DRUG-RELATED
16 OVERDOSE AND IS IN NEED OF MEDICAL ASSISTANCE:

17 (1) SHALL BE IMMUNE FROM CRIMINAL PROSECUTION FOR
18 POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE UNDER § 5-601 OF
19 THE CRIMINAL LAW ARTICLE IF THE EVIDENCE FOR THE CRIMINAL
20 PROSECUTION WAS OBTAINED SOLELY AS A RESULT OF THE PERSON'S SEEKING
21 MEDICAL ASSISTANCE; AND

22 (2) MAY NOT BE DETAINED ON OR PROSECUTED IN CONNECTION
23 WITH AN OUTSTANDING WARRANT FOR ANOTHER NONVIOLENT CRIME IF THE
24 PERSON'S SEEKING MEDICAL ASSISTANCE IS THE REASON FOR THE PERSON'S
25 ENCOUNTER WITH LAW ENFORCEMENT.

26 (C) THE ACT OF SEEKING MEDICAL ASSISTANCE FOR A PERSON WHO IS
27 EXPERIENCING AN ALCOHOL OR DRUG-RELATED OVERDOSE MAY BE USED AS A
28 MITIGATING FACTOR IN A CRIMINAL PROSECUTION.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2008.