

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2008

CHAPTER _____

1 AN ACT concerning

2 ~~Courts Limited Immunity Alcohol or Drug Related Overdose Incidents~~
3 Criminal Procedure – Medical Emergency After Alcohol or Drug Ingestion –
4 Mitigating Factor

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

21 BY adding to

22 Article – ~~Courts and Judicial Proceedings~~ Criminal Procedure

23 Section ~~5-642~~ 1-209

24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~(2006 Replacement~~ 2001 Volume and 2007 Supplement)

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

4 ~~Article - Courts and Judicial Proceedings~~ Criminal Procedure

5 ~~5-642.~~

6 ~~(A) (1) A PERSON WHO, IN GOOD FAITH, SEEKS MEDICAL ASSISTANCE~~
7 ~~FOR A PERSON EXPERIENCING AN ALCOHOL OR DRUG RELATED OVERDOSE;~~

8 ~~(i) SHALL BE IMMUNE FROM CIVIL LIABILITY OR CRIMINAL~~
9 ~~PROSECUTION FOR POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE~~
10 ~~UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE IF THE EVIDENCE FOR THE~~
11 ~~CRIMINAL PROSECUTION WAS OBTAINED SOLELY AS A RESULT OF THE~~
12 ~~PERSON'S SEEKING MEDICAL ASSISTANCE; AND~~

13 ~~(ii) MAY NOT BE DETAINED ON OR PROSECUTED IN~~
14 ~~CONNECTION WITH AN OUTSTANDING WARRANT FOR ANOTHER NONVIOLENT~~
15 ~~CRIME IF THE PERSON'S SEEKING MEDICAL ASSISTANCE IS THE REASON FOR~~
16 ~~THE PERSON'S ENCOUNTER WITH LAW ENFORCEMENT.~~

17 ~~(2) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO~~
18 ~~PROVIDED THE ALCOHOL OR DRUGS CAUSING THE OVERDOSE TO THE PERSON~~
19 ~~FOR WHOM MEDICAL ASSISTANCE IS SOUGHT.~~

20 ~~(B) A PERSON WHO EXPERIENCES AN ALCOHOL OR DRUG RELATED~~
21 ~~OVERDOSE AND IS IN NEED OF MEDICAL ASSISTANCE;~~

22 ~~(1) SHALL BE IMMUNE FROM CRIMINAL PROSECUTION FOR~~
23 ~~POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE UNDER § 5-601 OF~~
24 ~~THE CRIMINAL LAW ARTICLE IF THE EVIDENCE FOR THE CRIMINAL~~
25 ~~PROSECUTION WAS OBTAINED SOLELY AS A RESULT OF THE PERSON'S SEEKING~~
26 ~~MEDICAL ASSISTANCE; AND~~

27 ~~(2) MAY NOT BE DETAINED ON OR PROSECUTED IN CONNECTION~~
28 ~~WITH AN OUTSTANDING WARRANT FOR ANOTHER NONVIOLENT CRIME IF THE~~
29 ~~PERSON'S SEEKING MEDICAL ASSISTANCE IS THE REASON FOR THE PERSON'S~~
30 ~~ENCOUNTER WITH LAW ENFORCEMENT.~~

31 1-209.

32 ~~(c) THE ACT OF SEEKING MEDICAL ASSISTANCE FOR A PERSON WHO IS~~
33 ~~EXPERIENCING AN ALCOHOL OR DRUG RELATED OVERDOSE A MEDICAL~~

1 EMERGENCY AFTER INGESTING ALCOHOL OR DRUGS MAY BE USED AS A
2 MITIGATING FACTOR IN A CRIMINAL PROSECUTION.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.