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A BILL

19-754

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



To amend An Act to relieve physicians of liability for negligent medical treatment at the scene of an accident in the District of Columbia to decriminalize certain offenses for a person who seeks health care for someone reasonably believed to be experiencing a drug or alcohol-related overdose, including himself or herself, and for the person experiencing the overdose; to permit as a mitigating factor in criminal prosecutions for other drug and alcohol-related offenses the seeking of health care for an overdose victim, to decriminalize the possession and administration of opioid antagonists under certain circumstances; to require the Mayor to compile data on overdoses and overdose-related health care services; and to require the Department of Health to engage in public education.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Good Samaritan Overdose Prevention Amendment Act of 2012”.

Sec. 2. An Act to relieve physicians of liability for negligent medical treatment at the scene of an accident in the District of Columbia, approved November 8, 1965 (79 Stat. 1302; D.C. Official Code § 7-401 *et seq.*), is amended by adding a new section 3 to read as follows:

“Sec. 3. Seeking health care for an overdose victim.

“(a) Notwithstanding any other law, the offenses listed in subsection (b) of this section shall not be considered crimes, and shall not serve as the sole basis for revoking or modifying a person’s supervision status:

“(1) For a person who:

1 “(A) Reasonably believes that he or she is experiencing a drug or alcohol-
2 related overdose and in good faith seeks healthcare for himself or herself;

3 “(B) Reasonably believes that another person is experiencing a drug or
4 alcohol-related overdose and in good faith seeks healthcare for that person; or

5 “(C) Is reasonably believed to be experiencing a drug or alcohol-related
6 overdose and for whom health care is sought; and

7 “(2) The offense listed in subsection (b) of this section arises from the same
8 circumstances as the seeking of health care under paragraph (1) of this subsection.

9 “(b) The following offenses apply to subsection (a) of this section:

10 “(1) Unlawful possession of a controlled substance prohibited by section 401(d)
11 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5,
12 1981 (D.C. Law 4-29; D.C. Official Code § 48-904.01(d));

13 “(2) Unlawful use or possession with intent to use drug paraphernalia as
14 prohibited by section 4(a) of the Drug Paraphernalia Act of 1982, effective September 17, 1982
15 (D.C. Law 4-149; D.C. Official Code § 48-1103(a));

16 “(3) Unlawful possession of drug paraphernalia with the intent to use it for the
17 administration of a controlled substance as prohibited by section 410 of the District of Columbia
18 Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C.
19 Official Code § 48-904.10);

20 “(4) Possession of alcohol by persons under 21 years of age as prohibited by D.C.
21 Official Code § 25-1002; and

1 “(5) Provided that the minor is at least 16 years of age and the provider is 25
2 years of age or younger:

3 “(A) Purchasing an alcoholic beverage for the purpose of delivering it to a
4 person under 21 years of age as prohibited by D.C. Official Code § 25-785(a);

5 “(B) Contributing to the delinquency of a minor with regard to possessing
6 or consuming alcohol or, without a prescription, a controlled substance as prohibited by section
7 103(a)(2) and (b)(1) of the Omnibus Public Safety Amendment Act of 2006, effective April 24,
8 2007 (D.C. Law 16-306; D.C. Official Code § 22-811(a)(2)); and

9 “(C) The sale or delivery of an alcoholic beverage to a person under 21
10 years of age as prohibited by D.C. Official Code § 25-781(a)(1).

11

12 “(c) The seeking of health care under subsection (a) of this section, whether or not
13 presented by the parties, may be considered by the court as a mitigating factor in any criminal
14 prosecution or sentencing for a drug or alcohol-related offense that is not an offense listed in
15 subsection (b) of this section.

16 “(d) This section does not prohibit a person from being arrested, charged, or prosecuted,
17 or from having his or her supervision status modified or revoked, based on an offense other than
18 an offense listed in subsection (b) of this section, whether or not the offense arises from the same
19 circumstances as the seeking of health care.

20 “(e) A law enforcement officer who arrests an individual for an offense
21 listed in subsection (b) of this section shall not be subject to criminal prosecution, or civil

1 liability for false arrest or false imprisonment, if the officer made the arrest based on probable
2 cause.

3 “(f) Notwithstanding any other law, it shall not be considered a crime for a person to
4 possess or administer an opioid antagonist, nor shall such person be subject to civil liability in
5 the absence of gross negligence, if he or she administers the opioid antagonist:

6 “(1) In good faith to treat a person who he or she reasonably believes is
7 experiencing an overdose;

8 “(2) Outside of a hospital or medical office; and

9 “(3) Without the expectation of receiving or intending to seek compensation for
10 such service and acts.

11 “(g) The Mayor shall compile and review overdose data to identify changes in the causes
12 and rates of fatal and non-fatal overdoses in the District of Columbia and report the findings to
13 the Council annually. The report may be part of existing mortality reports issued by the Office
14 of the Chief Medical Examiner, and shall include enhanced data collection to measure the effect
15 of the Good Samaritan Overdose Prevention Amendment Act of 2012. The report may include
16 data on the following:

17 “(1) Overdose deaths, including data separated by age, gender, ethnicity, and
18 geographic location;

19 “(2) Utilization of emergency rooms for the treatment of overdose;

20 “(3) Utilization of pre-hospital services for the treatment of overdose;

21 “(4) Utilization of opioid antagonists for preventing opioid overdose deaths;

1 “(5) Utilization of 911 and other emergency service hotlines to seek and obtain
2 health care for an individual experiencing an overdose; and

3 “(6) Police arrests made in response to seeking health care for a person
4 experiencing an overdose.

5 “(h) The Department of Health shall educate the public on:

6 “(1) The risk and frequency of overdose deaths;

7 “(2) The prevention of overdoses and overdose deaths;

8 “(3) The importance of seeking health care for individuals who are experiencing
9 an overdose; and

10 “(4) The provisions of the Good Samaritan Overdose Prevention Amendment Act
11 of 2012, with a special emphasis on the education of subpopulations that may be at greater risk
12 of experiencing or witnessing an overdose.

13 “(i) For the purposes of this section, the term:

14 “(1) “Good faith” under subsection (a) of this section does not include the
15 seeking of health care as a result of using drugs or alcohol in connection with the execution of an
16 arrest warrant or search warrant or a lawful arrest or search.

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19 “(2) “Opioid Antagonist” means a drug, such as Naloxone, that binds to the
20 opioid receptors with higher affinity than agonists but does not activate the receptors, effectively
21 blocking the receptor, preventing the human body from making use of opiates and endorphins.

1 “(3) “Overdose” means an acute condition of physical illness, coma, mania,
2 hysteria, seizure, cardiac arrest, cessation of breathing, or death, which is or reasonably appears
3 to be the result of consumption or use of drugs or alcohol and relates to an adverse reaction to or
4 the quantity ingested of the drugs or alcohol, or to a substance with which the drugs or alcohol
5 was combined.

6 “(4) “Supervision status” means probation or release pending trial, sentencing,
7 appeal, or completion of sentence, for a violation of District law.”.

8 Sec. 3. Fiscal impact statement.

9 The Council adopts the fiscal impact statement in the committee report as the fiscal
10 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
11 approved December 24, 1973 (87 Stat. 813; D.C. Official Code
12 § 1-206.02(c)(3)).

13 Sec. 4. Effective date.

14 This act shall take effect following approval by the Mayor (or in the event of veto by the
15 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
16 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
17 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
18 Columbia Register.