

H. B. 4189

(By Delegates Perdue, Fleischauer, Diserio,
Guthrie, Kinsey, Marshall, Moore, Arvon,
Cowles, Faircloth and Rowan)

[Introduced January 15, 2014; referred to the
Committee on Health and Human Resources then the
Judiciary.]

FISCAL
NOTE

ABILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §16-46-1, §16-46-2,
and §16-46-3, all relating to creating a good samaritan policy
for certain offenses.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new article, designated §16-46-1, §16-46-2 and
§16-46-3, all to read as follows:

ARTICLE 46. OVERDOSE PREVENTION ACT.

§16-46-1. Legislative findings.

(a) The Legislature finds that good samaritan policies
encourage citizens to seek potentially life-saving medical
assistance for themselves or others without worry of disciplinary
or punitive action in cases of overdose.

§16-46-2. Definitions.

1 As used in this section:

2 (1) "Overdose" means an acute condition including, but not
3 limited to, physical illness, coma, mania, hysteria or death, which
4 is the result of the consumption or use of a controlled substance
5 or alcohol.

6 (2) "Medical Assistance" means the professional services
7 provided to a person experiencing an overdose by a health care
8 professional licensed, registered or certified under chapter thirty
9 or chapter sixteen of this code, acting within his or her lawful
10 scope of practice.

11 **§16-46-3. Medical amnesty.**

12 (a) A person who, in good faith and in a timely manner, seeks
13 medical assistance for someone or for himself or herself who is
14 experiencing an overdose may not be cited, arrested, or prosecuted
15 for a violation of:

16 (1) §60-3-9. Drinking in public places; possessing of
17 alcoholic liquor;

18 (2) §60-3-22a. Enabling consumption of alcohol by someone
19 under age twenty-one.

20 (3) §60A-4-401 (c) and (d). Delivering or possessing a
21 controlled substance.

22 (4) §60A-4-403a. Prohibiting the possession or selling of
23 illegal drug paraphernalia;

24 (5) §60A-4-406. Distributing to persons under the age of

1 eighteen by persons over the age of twenty-one; distributing by
2 persons eighteen or over in or on, or within one thousand feet of,
3 school or college.

4 (b) The person described in subsection (a), if physically
5 capable shall:

6 (1) Provide his or her own full name if requested by emergency
7 medical assistance personnel or law-enforcement officers;

8 (2) Provide any other relevant information requested by the
9 emergency medical assistance personnel or law-enforcement officer
10 that is known to such person;

11 (3) Remain with the individual who reasonably appears to be in
12 need of medical assistance due to an overdose until professional
13 emergency medical assistance is provided; and

14 (4) Cooperates with emergency medical assistance personnel and
15 law-enforcement officers.

16 (c) A person who acts pursuant to subsection (a) of this
17 section may not be subject to any sanction for a violation of a
18 condition of pretrial release, probation, furlough, or parole.

19 (d) The act of seeking medical assistance for or by someone
20 who is experiencing an overdose shall be considered a mitigating
21 circumstance at sentencing for a violation of any other offense.

22 (e) The immunity provisions of this section apply only to the
23 use and derivative use of evidence gained as a proximate result of
24 the person's seeking medical assistance for an overdose, and do not

1 preclude prosecution of the person on the basis of evidence
2 obtained from an independent source.

3 (f) Except in cases of reckless or intentional misconduct, law
4 enforcement is immune from liability for citing or arresting a
5 person who is later determined to qualify for immunity under this
6 section.

NOTE: The purpose of this bill is to provide amnesty from certain offenses for a person who seeks health care for someone or for himself or herself who is experiencing an overdose.

This article is new; therefore, it has been completely underscored.

This bill is recommended for passage during the 2014 legislative session by the Joint Committee on Health.