

CHAPTER 218  
HB 270 – FINAL VERSION

11Mar2015... 0488h  
06/04/2015 2083s

2015 SESSION

15-0441  
04/08

HOUSE BILL           **270**

AN ACT               granting immunity from arrest, prosecution, or conviction to a person who requests medical assistance to save the life of an overdose victim.

SPONSORS:       Rep. Bouldin, Hills 12; Rep. Edwards, Hills 11; Rep. Herbert, Hills 43; Rep. Hoell, Merr 23

COMMITTEE:      Criminal Justice and Public Safety

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AMENDED ANALYSIS

This bill permits a witness or victim of a drug overdose to request medical assistance in order to save the life of an overdose victim by protecting the witness or victim from arrest, prosecution, and conviction. The bill also provides immunity from arrest, prosecution, or conviction for a person who, in good faith and in a timely manner, requests medical assistance for someone who is experiencing a drug overdose or for themselves if they are experiencing a drug overdose.

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Explanation:       Matter added to current law appears in ***bold italics***.  
                          Matter removed from current law appears [~~in brackets and struck through~~].  
                          Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fifteen*

AN ACT                    granting immunity from arrest, prosecution, or conviction to a person who requests medical assistance to save the life of an overdose victim.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            218:1 Legislative Intent. It is the intent of the general court to encourage a witness or victim of  
2 a drug overdose to request medical assistance in order to save the life of an overdose victim by  
3 establishing a state policy of protecting the witness or victim from arrest, prosecution, and conviction  
4 for the crime of possession of the controlled drug that is the agent of the overdose. It is the intent of  
5 the general court to provide immunity from arrest, prosecution, or conviction for possessing, or  
6 having under his or her control, a controlled drug in violation of RSA 318-B:2, where medical  
7 assistance has been requested for someone experiencing an overdose.

8            218:2 New Section; Controlled Drug Act; Immunity From Liability. Amend RSA 318-B by  
9 inserting after section 28-a the following new section:

10            318-B:28-b Immunity From Liability.

11            I. As used in this section:

12            (a) "Drug overdose" means an acute condition resulting from or believed to be resulting  
13 from the use of a controlled drug which a layperson would reasonably believe requires medical  
14 assistance.

15            (b) "Medical assistance" means professional services provided to a person experiencing a  
16 drug overdose by a health care professional licensed, registered, or certified under state law who,  
17 acting within his or her lawful scope of practice, may provide diagnosis, treatment, or emergency  
18 services for a person experiencing a drug overdose.

19            (c) "Requests medical assistance" shall include a request for medical assistance as well  
20 as providing care to someone who is experiencing a drug overdose while awaiting the arrival of  
21 medical assistance to aid the overdose victim.

22            II. It shall be a defense to an offense of possessing or having under his or her control, a  
23 controlled drug in violation of RSA 318-B:2 that a person in good faith and in a timely manner  
24 requests medical assistance for another person who is experiencing a drug overdose. A person who  
25 in good faith and in a timely manner requests medical assistance for another person who is  
26 experiencing a drug overdose shall not be arrested, prosecuted, or convicted for possessing, or having  
27 under his or her control, a controlled drug in violation of RSA 318-B:2, if the evidence for the charge

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1 was gained as a proximate result of the request for medical assistance.

2 III. It shall be a defense to an offense of possessing or having under his or her control, a  
3 controlled drug in violation of RSA 318-B:2 that a person who is experiencing a drug overdose, in  
4 good faith and in a timely manner, requests medical assistance for himself or herself. A person who  
5 in good faith requests, or is the subject of a good faith request for medical assistance, shall not be  
6 arrested, prosecuted, or convicted for possessing, or having under his or her control, a controlled  
7 drug in violation of RSA 318-B:2, if the evidence for the charge was gained as a proximate result of  
8 the request for medical assistance.

9 IV.(a) Nothing in this section shall be construed to limit the admissibility of evidence in  
10 connection with the investigation or prosecution of a crime involving a person who is not protected as  
11 provided in paragraphs II or III.

12 (b) Nothing in this section shall be construed to limit the lawful seizure of any evidence  
13 or contraband.

14 (c) Nothing in this section shall be construed to limit or abridge the authority of a law  
15 enforcement officer to detain or place into custody a person as part of a criminal investigation, or to  
16 arrest a person for an offense not protected by the provisions of paragraphs II or III.

17 V. No later than January 1, 2016, the commissioner of the department of health and human  
18 services shall develop and make available on the department's public Internet website, information  
19 for the public explaining the meaning and applicability of the provisions of this section.

20 218:3 Applicability. This act shall apply to a person who requests medical assistance for a drug  
21 overdose on or after the effective date of this act.

22 218:4 Repeal. RSA 318-B:28-b, relative to immunity from liability, is repealed.

23 218:5 Effective Date.

24 I. Section 4 of this act shall take effect September 1, 2018.

25 II. The remainder of this act shall take effect 60 days after its passage.

26  
27 Approved: July 8, 2015

28 Effective Date: I. Section 4 shall take effect September 1, 2018

29 II. Remainder shall take effect September 6, 2015