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.


COMMITTEE: Criminal Justice and Public Safety

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.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
CHAPTER 218
HB 270 – FINAL VERSION

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:

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

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

I. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

218:5 Effective Date.

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

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