

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

355X0387

## HOUSE JUDICIARY ENGROSSED NO. **HB 1077** - 01/27/2016

Introduced by: Representatives Munsterman, Beal, Brunner, Craig, Langer, Marty, Qualm, Stalzer, and Westra and Senators Tidemann, Holien, Hunhoff (Bernie), Olson, Parsley, Peters, Van Gerpen, and Vehle

1 FOR AN ACT ENTITLED, An Act to grant limited immunity from arrest and prosecution for  
2 certain related offenses to persons who assist certain persons in need of emergency  
3 assistance or who are themselves in need of emergency assistance.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That the code be amended by adding a NEW SECTION to read:

6 Terms used in this Act mean:

7 (1) "Drug-related overdose," means an acute condition, including mania, hysteria,  
8 extreme physical illness, coma, or death resulting from the consumption or use of a  
9 controlled substance, or another substance with which a controlled substance was  
10 combined, and that a person would reasonably believe to be a drug overdose that  
11 requires medical assistance.

12 Section 2. That the code be amended by adding a NEW SECTION to read:

13 No person may be arrested or prosecuted for any misdemeanor offense of possession,  
14 inhalation, ingestion, or otherwise taking into the body any controlled drug or substance if that



1 person contacts any law enforcement or emergency medical services and reports that a person  
2 is in need of emergency medical assistance as the result of a drug-related overdose. A person  
3 qualifies for the immunities provided in this Act only if:

- 4 (1) The evidence for the charge or prosecution was obtained as a result of the person  
5 seeking medical assistance for another person;
- 6 (2) The person seeks medical assistance for another person who is in need of medical  
7 assistance for an immediate health or safety concern; and
- 8 (3) The person seeking medical assistance for another person remains on the scene and  
9 cooperates with medical assistance and law enforcement personnel.

10 Section 3. That the code be amended by adding a NEW SECTION to read:

11 A person who experiences a drug-related overdose and is in need of medical assistance may  
12 not be arrested, charged, or prosecuted for any misdemeanor offense of possession, inhalation,  
13 ingestion, or otherwise taking into the body any controlled drug or substance if that person  
14 contacts law enforcement or emergency medical services and reports that he or she is in need  
15 of medical assistance as the result of a drug-related overdose. A person qualifies for the  
16 immunities provided in this section only if the evidence for the charge or prosecution was  
17 obtained as a result of the drug-related overdose and the need for medical assistance.

18 Section 4. That the code be amended by adding a NEW SECTION to read:

19 Providing first aid or other medical assistance to someone who is experiencing a drug-  
20 related overdose may be used as a mitigating factor in a criminal prosecution for which  
21 immunity is not provided under this Act. Nothing in this Act may be construed to:

- 22 (1) Bar the admissibility of any evidence obtained in connection with the investigation  
23 and prosecution of other crimes or violations committed by a person who otherwise  
24 qualifies for limited immunity pursuant to this Act; or

- 1       (2)   Limit, modify, or remove any immunity from liability currently available to public
- 2           entities, public employees by law, or prosecutors.