

Senate Bill No. 419

(By Senators Stollings, Laird, Boley, M. Hall, Kirkendoll,
Miller, Palumbo, Plymale, Prezioso, Tucker, Walters, Yost,
Jenkins, Cookman, Barnes and Fitzsimmons)

**Interim
Bill**

[Introduced January 23, 2014; referred to the Committee on Health
and Human Resources; and then to the Committee on the Judiciary.]

A BILL 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.

1 **§16-46-2. Definitions.**

2 As used in this section:

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

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

12 **§16-46-3. Medical amnesty.**

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

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

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

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

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

1 (5) §60A-4-406. Distributing to persons under the age of
2 eighteen by persons over the age of twenty-one; distributing by
3 persons eighteen or over in or on, or within one thousand feet of,
4 school or college.

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

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

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

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

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

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

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

23 (e) The immunity provisions of this section apply only to the
24 use and derivative use of evidence gained as a proximate result of

1 the person's seeking medical assistance for an overdose, and do not
2 preclude prosecution of the person on the basis of evidence
3 obtained from an independent source.

4 (f) Except in cases of reckless or intentional misconduct, law
5 enforcement is immune from liability for citing or arresting a
6 person who is later determined to qualify for immunity under this
7 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, strike-throughs and underscoring have been omitted.

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