

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0823.01 Richard Sweetman x4333

SENATE BILL 16-042

SENATE SPONSORSHIP

Aguilar,

HOUSE SPONSORSHIP

Moreno,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING CONDITIONAL IMMUNITY FROM CERTAIN OFFENSES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, a person who reports an emergency drug or alcohol overdose event is immune from criminal prosecution for certain drug-related offenses if certain conditions are satisfied. The bill amends these circumstances and extends this immunity to (1) apply to one or 2 other persons who also satisfy the reporting conditions and (2) immunize the reporters from arrests as well as from prosecutions.

Under current law, an underage person who calls 911 and reports that another underage person is in need of medical assistance due to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

alcohol or marijuana consumption is immune from criminal prosecution for certain offenses if certain conditions are satisfied. The bill amends these circumstances and extends this immunity to (1) apply to one or 2 other persons who also satisfy the reporting conditions and (2) immunize the reporters from arrests as well as from prosecutions. The bill also extends this immunity to the underage person who was in need of medical assistance.

A person who reports an emergency drug or alcohol overdose event and who meets the requirements for immunity is not subject to a violation of any condition of pretrial release, probation, or parole if the violation arises from the same course of events from which the emergency drug or alcohol overdose event arose.

If a person reports an emergency drug or alcohol overdose event, and the person meets the requirements for immunity, and the person is subject to an arrest warrant, a law enforcement officer responding to the emergency drug or alcohol overdose event, in lieu of making an arrest, shall issue a summons to the person if:

! The warrant involves a failure to appear, a failure to pay a fine, or any misdemeanor, petty offense, or traffic offense; and

! The warrant does not involve a felony alleged to have been committed by the person.

If a person suffers an emergency drug or alcohol overdose event, the event is reported in good faith, and the person is subject to an arrest warrant, a law enforcement officer responding to the emergency drug or alcohol overdose event, in lieu of making an arrest, shall issue a summons to the person if:

! The warrant involves a failure to appear, a failure to pay a fine, or any misdemeanor, petty offense, or traffic offense; and

! The warrant does not involve a felony alleged to have been committed by the person.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-1-711, **amend** (1),
3 (2), (4), and (5); and **add** (2.5) and (6) as follows:

4 **18-1-711. Immunity for persons who suffer or report an**
5 **emergency drug or alcohol overdose event - definitions.** (1) A person
6 ~~shall be~~ AND ONE OR TWO OTHER PERSONS ARE immune from ~~criminal~~
7 ARREST AND prosecution for an offense described in subsection (3) of this

1 section if:

2 (a) The person OR OTHER PERSONS ~~reports~~ REPORT in good faith
3 an emergency drug or alcohol overdose event to a ~~law enforcement~~ PEACE
4 officer, to the 911 system, or to a medical provider;

5 (b) The person remains at the scene of the event until a ~~law~~
6 ~~enforcement~~ PEACE officer or an emergency medical responder arrives,
7 or the person remains at the facilities of the medical provider TO WHICH
8 THE VICTIM HAS BEEN TRANSPORTED until a ~~law enforcement~~ PEACE
9 officer, EMERGENCY MEDICAL RESPONDER, OR MEDICAL PROVIDER arrives;

10 (c) The person ~~identifies himself or herself to,~~ and cooperates with
11 the ~~law enforcement~~ PEACE officer, emergency medical responder, or
12 medical provider; and

13 (d) The offense arises from the same course of events from which
14 the emergency drug or alcohol overdose event arose.

15 (2) The immunity described in subsection (1) of this section also
16 extends to the person who suffered the emergency drug or alcohol
17 overdose event if ~~all of~~ the conditions of PARAGRAPHS (a) AND (d) OF
18 subsection (1) are satisfied.

19 (2.5) A PERSON IS IMMUNE FROM ARREST AND PROSECUTION FOR
20 AN OFFENSE DESCRIBED IN SUBSECTION (3) OF THIS SECTION IF:

21 (a) HE OR SHE SUFFERS AN EMERGENCY DRUG OR ALCOHOL
22 OVERDOSE EVENT AND REPORTS IN GOOD FAITH THE EMERGENCY DRUG OR
23 ALCOHOL OVERDOSE EVENT TO A PEACE OFFICER, TO THE 911 SYSTEM, OR
24 TO A MEDICAL PROVIDER; AND

25 (b) THE OFFENSE ARISES FROM THE SAME COURSE OF EVENTS FROM
26 WHICH THE EMERGENCY DRUG OR ALCOHOL OVERDOSE EVENT AROSE.

27 (4) Nothing in this section ~~shall be interpreted to prohibit~~

1 PROHIBITS the prosecution of a person for an offense other than an offense
2 listed in subsection (3) of this section or ~~to limit~~ LIMITS the ability of a
3 district attorney or a ~~law enforcement~~ PEACE officer to obtain or use
4 evidence obtained from a report, recording, or any other statement
5 provided pursuant to subsection (1) of this section to investigate and
6 prosecute an offense other than an offense listed in subsection (3) of this
7 section.

8 (5) ~~As used in this section, unless the context otherwise requires,~~
9 ~~"emergency drug or alcohol overdose event" means an acute condition~~
10 ~~including, but not limited to, physical illness, coma, mania, hysteria, or~~
11 ~~death resulting from the consumption or use of a controlled substance, or~~
12 ~~of alcohol, or another substance with which a controlled substance or~~
13 ~~alcohol was combined, and that a layperson would reasonably believe to~~
14 ~~be a drug or alcohol overdose that requires medical assistance~~
15 NOTWITHSTANDING ANY OTHER PROVISION OF LAW:

16 (a) A PERSON WHO MEETS THE REQUIREMENTS FOR THE IMMUNITY
17 DESCRIBED IN SUBSECTION (1) OR (2) OF THIS SECTION IS NOT SUBJECT TO
18 A VIOLATION OF ANY CONDITION OF PRETRIAL RELEASE, PROBATION, OR
19 PAROLE IF THE VIOLATION ARISES FROM THE SAME COURSE OF EVENTS
20 FROM WHICH THE EMERGENCY DRUG OR ALCOHOL OVERDOSE EVENT
21 AROSE.

22 (b) IF A PERSON REPORTS AN EMERGENCY DRUG OR ALCOHOL
23 OVERDOSE EVENT, AND THE PERSON MEETS THE REQUIREMENTS FOR
24 IMMUNITY DESCRIBED IN SUBSECTION (1) THIS SECTION, AND THE PERSON
25 IS SUBJECT TO AN ARREST WARRANT, A LAW ENFORCEMENT OFFICER
26 RESPONDING TO THE EMERGENCY DRUG OR ALCOHOL OVERDOSE EVENT,
27 IN LIEU OF MAKING AN ARREST, SHALL ISSUE A SUMMONS TO THE PERSON

1 IF:

2 (I) THE WARRANT INVOLVES A FAILURE TO APPEAR, A FAILURE TO
3 PAY A FINE, OR ANY MISDEMEANOR, PETTY OFFENSE, OR TRAFFIC OFFENSE;
4 AND

5 (II) THE WARRANT DOES NOT INVOLVE A FELONY ALLEGED TO
6 HAVE BEEN COMMITTED BY THE PERSON.

7 (c) IF A PERSON SUFFERS AN EMERGENCY DRUG OR ALCOHOL
8 OVERDOSE EVENT; THE EVENT IS REPORTED IN GOOD FAITH TO A PEACE
9 OFFICER, TO THE 911 SYSTEM, OR TO A MEDICAL PROVIDER; AND THE
10 PERSON IS SUBJECT TO AN ARREST WARRANT, A LAW ENFORCEMENT
11 OFFICER RESPONDING TO THE EMERGENCY DRUG OR ALCOHOL OVERDOSE
12 EVENT, IN LIEU OF MAKING AN ARREST, SHALL ISSUE A SUMMONS TO THE
13 PERSON IF:

14 (I) THE WARRANT INVOLVES A FAILURE TO APPEAR, A FAILURE TO
15 PAY A FINE, OR ANY MISDEMEANOR, PETTY OFFENSE, OR TRAFFIC OFFENSE;
16 AND

17 (II) THE WARRANT DOES NOT INVOLVE A FELONY ALLEGED TO
18 HAVE BEEN COMMITTED BY THE PERSON.

19 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
20 REQUIRES, "EMERGENCY DRUG OR ALCOHOL OVERDOSE EVENT" MEANS AN
21 ACUTE CONDITION INCLUDING, BUT NOT LIMITED TO, PHYSICAL ILLNESS,
22 COMA, MANIA, HYSTERIA, OR DEATH RESULTING FROM THE CONSUMPTION
23 OR USE OF A CONTROLLED SUBSTANCE, OR OF ALCOHOL, OR OF ANOTHER
24 SUBSTANCE WITH WHICH A CONTROLLED SUBSTANCE OR ALCOHOL WAS
25 COMBINED, AND THAT A LAYPERSON WOULD REASONABLY BELIEVE TO BE
26 A DRUG OR ALCOHOL OVERDOSE THAT REQUIRES MEDICAL ASSISTANCE.

27 **SECTION 2.** In Colorado Revised Statutes, 18-13-122, **amend**

1 (7) as follows:

2 **18-13-122. Illegal possession or consumption of ethyl alcohol**
3 **or marijuana by an underage person - illegal possession of marijuana**
4 **paraphernalia by an underage person - definitions - adolescent**
5 **substance abuse prevention and treatment fund - legislative**
6 **declaration.** (7) (a) An underage person ~~shall be~~ AND ONE OR TWO

7 OTHER PERSONS ARE immune from ~~criminal~~ ARREST AND prosecution
8 under this section if ~~he or she establishes~~ THEY ESTABLISH the following:

9 ~~(a)~~ (I) The underage person OR ANOTHER UNDERAGE PERSON
10 ~~called 911 and~~ reported in good faith TO A PEACE OFFICER, TO THE 911
11 SYSTEM, OR TO A MEDICAL PROVIDER that another underage person was
12 in need of medical assistance due to alcohol or marijuana consumption;

13 (II) THE UNDERAGE PERSON WHO CALLED 911 PROVIDED HIS OR
14 HER NAME TO THE 911 OPERATOR; AND

15 (III) THE UNDERAGE PERSON REMAINED ON THE SCENE WITH THE
16 UNDERAGE PERSON IN NEED OF MEDICAL ASSISTANCE UNTIL ASSISTANCE
17 ARRIVED AND COOPERATED WITH MEDICAL ASSISTANCE OR LAW
18 ENFORCEMENT PERSONNEL ON THE SCENE.

19 ~~(b) The underage person who called 911 provided his or her name~~
20 ~~to the 911 operator;~~ THE IMMUNITY DESCRIBED IN PARAGRAPH (a) OF THIS
21 SUBSECTION (7) ALSO EXTENDS TO THE UNDERAGE PERSON WHO WAS IN
22 NEED OF MEDICAL ASSISTANCE DUE TO ALCOHOL OR MARIJUANA
23 CONSUMPTION IF THE CONDITION SET FORTH IN SUBPARAGRAPH (I) OF SAID
24 PARAGRAPH (a) IS SATISFIED.

25 ~~(c) The underage person was the first person to make the 911~~
26 ~~report; and~~

27 ~~(d) The underage person who made the 911 call remained on the~~

1 ~~scene with the underage person in need of medical assistance until~~
2 ~~assistance arrived and cooperated with medical assistance or law~~
3 ~~enforcement personnel on the scene.~~

4 **SECTION 3.** In Colorado Revised Statutes, 12-47-901, **amend**
5 (1.5) as follows:

6 **12-47-901. Unlawful acts - exceptions.** (1.5) (a) An underage
7 person ~~shall be~~ AND ONE OR TWO OTHER UNDERAGE PERSONS ARE immune
8 from ~~criminal~~ ARREST AND prosecution under paragraph (b) or (c) of
9 subsection (1) of this section if ~~he or she establishes~~ THEY ESTABLISH the
10 following:

11 ~~(a)~~ (I) The underage person OR ANOTHER UNDERAGE PERSON
12 ~~called 911 and~~ reported IN GOOD FAITH TO A PEACE OFFICER, TO THE 911
13 SYSTEM, OR TO A MEDICAL PROVIDER that another underage person was
14 in need of medical assistance due to alcohol consumption;

15 (II) THE UNDERAGE PERSON WHO CALLED 911 PROVIDED HIS OR
16 HER NAME TO THE 911 OPERATOR; AND

17 (III) THE UNDERAGE PERSON REMAINED ON THE SCENE WITH THE
18 UNDERAGE PERSON IN NEED OF MEDICAL ASSISTANCE UNTIL ASSISTANCE
19 ARRIVED AND COOPERATED WITH MEDICAL ASSISTANCE OR LAW
20 ENFORCEMENT PERSONNEL ON THE SCENE.

21 (b) ~~The underage person who called 911 provided his or her name~~
22 ~~to the 911 operator;~~ THE IMMUNITY DESCRIBED IN PARAGRAPH (a) OF THIS
23 SUBSECTION (1.5) ALSO EXTENDS TO THE UNDERAGE PERSON WHO WAS IN
24 NEED OF MEDICAL ASSISTANCE DUE TO ALCOHOL CONSUMPTION IF THE
25 CONDITION SET FORTH IN SUBPARAGRAPH (I) OF SAID PARAGRAPH (a) IS
26 SATISFIED.

27 (c) ~~The underage person was the first person to make the 911~~

1 report; and

2 (d) ~~The underage person who made the 911 call remained on the~~
3 ~~scene with the underage person in need of medical assistance until~~
4 ~~assistance arrived and cooperated with medical assistance or law~~
5 ~~enforcement personnel on the scene.~~

6 **SECTION 4. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2016 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.