



SENATE BILL 154: Clarifying the Good Samaritan Law

2015-2016 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2015-94

Date:

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Legislative Analyst

SUMMARY: *S.L. 2015-94 does the following:*

- *Imposes additional statutory requirements that must be met before a person can receive immunity from criminal prosecution when seeking medical attention for someone suffering from a drug- or alcohol- related overdose.*
- *Prohibits arresting a person or revoking a person's pretrial release, probation, parole or post-release based on an offense for which that person is entitled to statutory immunity.*
- *Grants immunity from civil liability to law enforcement officers who, in good faith, arrest or charge persons later found to be entitled to statutory immunity.*
- *Provides that nothing in G.S. 90-96.2 bars admission of evidence of crimes by a person not entitled to immunity, limits seizure of evidence or contraband otherwise permitted by law, limits a law enforcement officer's authority to detain or take into custody a person during an arrest for or investigation of offenses other than those for which limited immunity is provided in G.S. 90-96.2, or limits a probation offer's authority to conduct drug testing on persons on pretrial release, probation, or parole.*
- *Amends the statutes governing the treatment of overdose with opioid antagonist to authorize pharmacists to dispense an opiate antagonist prescribed to a person at risk of experiencing an opiate-related overdose or to a family member, friend, or other person in a position to assist that person, and to grant pharmacists immunity from civil and criminal liability for dispensing an opiate antagonist pursuant to this authority.*

This act became effective August 1, 2015, and applies to offenses committed on or after that date.

CURRENT LAW: Under G.S. 90-96.2 of the Controlled Substances Act, a person acting in good faith when seeking medical assistance for an individual suffering from a drug-related overdose is immune from criminal prosecution for the following offenses if the evidence supporting prosecution was obtained as a result of the person seeking medical assistance for the drug-related overdose:

- misdemeanor possession of drug paraphernalia in violation of G.S. 90-113.22
- misdemeanor possession of a controlled substance in violation of G.S. 90-95(a)(3)
- felony possession of less than one gram of cocaine in violation of G.S. 90-95(a)(3)
- felony possession of less than one gram of heroin in violation of G.S. 90-95(a)(3)

In addition, the person suffering from a drug-related overdose and needing medical assistance is immune from criminal prosecution for these offenses if the evidence supporting prosecution was obtained as a result of the drug-related overdose and the person's need for medical assistance.

Evidence obtained in connection with an investigation of other crimes committed by a person entitled to this limited immunity remains admissible in a prosecution for those other crimes.

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Under G.S. 18B-302.2, a person under the age of 21 is immune from prosecution for underage possession or consumption of alcoholic beverages if law enforcement became aware of the offense solely because the person was seeking medical assistance for another individual and all of the following conditions are met:

- the person sought medical assistance in good faith upon the reasonable belief that he or she was the first to call for medical assistance
- the person identified himself or herself when contacting authorities
- the person remained with the person needing assistance until help arrived

Under G.S. 90-106.2 of the Controlled Substances Act, a practitioner acting in good faith and exercising reasonable care is authorized to prescribe naloxone hydrochloride, a prescription medication used to counter the effects of opiate overdose, to a person at risk of experiencing an opiate-related overdose or to a family member, friend, or other person in a position to assist a person who is at risk of experiencing an opiate-related overdose. The prescribing practitioner, and any person receiving the drug from the practitioner who exercises reasonable care in administering the drug to a person under the good faith belief that the person is experiencing an opiate-related overdose, are immune from any civil or criminal liability for actions authorized under G.S. 90-106.2.

BILL ANALYSIS:

Section 1 amends G.S. 90-96.2 to:

- require all of the following conditions to be met in order for a person to receive immunity from prosecution for the specified drug-related offenses:
 - (1) the person sought medical assistance for the drug-related overdose by contacting 911, a law enforcement officer, or emergency medical services personnel;
 - (2) the person acted in good faith when seeking medical assistance in the reasonable belief that he or she was the first to call for assistance;
 - (3) the person identified himself or herself when contacting 911 or to a law enforcement officer upon arrival;
 - (4) the person did not seek the medical assistance during the course of the execution of an arrest warrant, search warrant, or other lawful search; and
 - (5) the evidence supporting prosecution was obtained as a result of the person seeking medical assistance for the drug-related overdose
- provide immunity from prosecution for the same offenses to the person needing medical assistance if requirements (1), (2), (4) and (5) all have been met
- prohibit arresting a person or revoking a person's pretrial release, probation, parole or post-release based on an offense for which that person is immune from prosecution under this section
- provide immunity from civil liability to a law enforcement officer who, in good faith, arrests or charges a person who is subsequently found to be entitled to immunity under this section
- provide that G.S. 90-96.2:
 - does not bar the admission of evidence obtained in connection with the investigation and prosecution of any crimes committed by a person who does not qualify for limited immunity under G.S. 90-96.2;
 - does not limit the seizure of evidence or contraband otherwise permitted by law

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- does not limit a law enforcement officer's authority to detain or take into custody any person as part of an investigation of or arrest for any offense other than the four offenses for which limited immunity is available under G.S. 90-96.2
- does not limit a probation officer's authority to conduct drug testing of persons on pretrial release, probation, or parole

Section 2 amends G.S. 18B-302.2 to do the following:

- require all of the following conditions to exist in order for a person to receive immunity from prosecution for underage possession or consumption of alcohol:
 - (1) the person sought medical assistance for an individual experiencing an alcohol-related overdose by contacting 911, a law enforcement officer, or emergency medical services personnel;
 - (2) the person acted in good faith when seeking medical assistance in the reasonable belief that he or she was the first to call for assistance;
 - (3) the person identified himself or herself when contacting 911 or to a law enforcement officer upon arrival;
 - (4) the person did not seek the medical assistance during the course of the execution of an arrest warrant, search warrant, or other lawful search; and
 - (5) the evidence supporting prosecution was obtained as a result of the person seeking medical assistance for the alcohol-related overdose
- provide immunity from prosecution for underage possession or consumption of alcohol to the person needing medical assistance if requirements (1), (2), (4) and (5) all have been met
- prohibit arresting a person or revoking a person's pretrial release, probation, parole or post-release based on an offense for which that person is immune from prosecution under this section
- provide immunity from civil liability to a law enforcement officer who, in good faith, arrests or charges a person who is subsequently found to be entitled to immunity under this section

Section 3 amends G.S. 90-106.2 to authorize a pharmacist to dispense an opioid antagonist to a person at risk of experiencing an opiate-related overdose or to a family member, friend, or other person in a position to assist a person at such risk, pursuant to a prescription issued by a practitioner in accordance with G.S. 90-106.2(b), and would grant the pharmacist immunity from any civil or criminal liability for doing so.

EFFECTIVE DATE: This act became effective August 1, 2015, and applies to offenses committed on or after that date.

**Bill Patterson, Staff Attorney, contributed substantially to this summary.*