

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 852
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10426-NB-105B

Short Title: Good Samaritan Revisions/Immunity.

(Public)

Sponsors: Representative Adcock.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE LIMITED IMMUNITY FOR CERTAIN ACTIONS TAKEN BY PERSONS SEEKING MEDICAL ASSISTANCE FOR DRUG- AND ALCOHOL-RELATED OVERDOSES AND TO BROADEN LIMITED IMMUNITY FOR CERTAIN COVERED OFFENSES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 90-96.2 reads as rewritten:

"§ 90-96.2. Drug-related overdose treatment; limited immunity.

(a) As used in this section, "drug-related overdose" means an acute condition, including mania, hysteria, extreme physical illness, coma, or death resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe to be a drug overdose that requires medical assistance.

(b) Limited Immunity for Samaritan. – A person shall not be arrested, charged, or prosecuted for any of the offenses listed in subsection (c3) of this section if all of the following requirements and conditions are met:

- (1) The person sought medical assistance or assisted in seeking medical assistance for an individual experiencing a drug-related overdose by contacting the 911 system, campus security services, a law enforcement officer, or emergency medical services personnel.
- (2) The person acted in good faith when seeking medical assistance or when assisting a person in seeking medical assistance, upon a reasonable belief that ~~he or she~~ the person was the first to call for assistance.
- (3) The person provided his or her own name to the 911 system or to a law enforcement officer upon arrival.
- (4) The person did not seek the medical assistance or assist in seeking the medical assistance during the course of the execution of an arrest warrant, search warrant, or other lawful search.
- (5) The evidence for prosecution of the offenses listed in subsection (c3) of this section was obtained as a result of the person seeking medical assistance or assisting in seeking medical assistance for the drug-related overdose.

(c) Limited Immunity for Overdose Victim. – The immunity described in subsection (b) of this section shall extend to the person who experienced the drug-related ~~overdose-overdose,~~ whether that person is the subject of another person's request for medical assistance or whether that person requested medical assistance for himself or herself, if all of the requirements and conditions listed in subdivisions (1), (2), (4), and (5) of subsection (b) of this section are satisfied.



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1 (c1) Probation or Release. – A person shall not be subject to arrest or revocation of pretrial
2 release, probation, parole, or post-release if the arrest or revocation is based on an offense for
3 which the person is immune from prosecution under subsection (b) or (c) of this section. The
4 arrest of a person for an offense for which subsection (b) or (c) of this section may provide the
5 person with immunity will not itself be deemed to be a commission of a new criminal offense in
6 violation of a condition of the person's pretrial release, condition of probation, or condition of
7 parole or post-release.

8 (c2) Civil Liability for Arrest or Charges. – In addition to any other applicable immunity
9 or limitation on civil liability, a law enforcement officer who, acting in good faith, arrests or
10 charges a person who is thereafter determined to be entitled to immunity under this section shall
11 not be subject to civil liability for the arrest or filing of charges.

12 (c3) Covered Offenses. – A person shall have limited immunity from prosecution under
13 subsections (b) and (c) of this section for only the following offenses:

14 (1) A ~~misdemeanor~~ violation of G.S. 90-95(a)(3).

15 (2) A ~~felony violation of G.S. 90-95(a)(3) for possession of less than one gram of~~
16 ~~cocaine.~~

17 (3) A ~~felony violation of G.S. 90-95(a)(3) for possession of less than one gram of~~
18 ~~heroin.~~

19 (4) A violation of G.S. 90-113.22.

20 (d) Construction. – Nothing in this section shall be construed to do any of the following:

21 (1) Bar the admissibility of any evidence obtained in connection with the
22 investigation and prosecution of (i) other crimes committed by a person who
23 otherwise qualifies for limited immunity under this section or (ii) any crimes
24 committed by a person who does not qualify for limited immunity under this
25 section.

26 (2) Limit any seizure of evidence or contraband otherwise permitted by law.

27 (3) Limit or abridge the authority of a law enforcement officer to detain or take
28 into custody a person in the course of an investigation of, or to effectuate an
29 arrest for, any offense other than an offense listed in subsection (c3) of this
30 section.

31 (4) Limit or abridge the authority of a probation officer to conduct drug testing of
32 persons on pretrial release, probation, or parole."

33 **SECTION 1.(b)** G.S. 18B-302.2 reads as rewritten:

34 "**§ 18B-302.2. Medical treatment; limited immunity.**

35 (a) Limited Immunity for Samaritan. – Notwithstanding any other provision of law, a
36 person under the age of 21 shall not be arrested, charged, or prosecuted for a violation of
37 G.S. 18B-302 for the possession or consumption of alcoholic beverages if all of the following
38 requirements and conditions are met:

39 (1) The person sought medical assistance or assisted in seeking medical assistance
40 for an individual experiencing an alcohol-related overdose by contacting the
41 911 system, a law enforcement officer, campus security services, or
42 emergency medical services personnel.

43 (1a) The person acted in good faith when seeking medical or when assisting a
44 person in seeking medical assistance, upon a reasonable belief that ~~he or she~~
45 the person was the first to call for assistance.

46 (2) The person provided his or her own name to the 911 system or to a law
47 enforcement officer upon arrival.

48 ...

49 (4) The person did not seek the medical assistance or assist in seeking the medical
50 assistance during the course of the execution of an arrest warrant, search
51 warrant, or other lawful search.

1 (5) The evidence for prosecution of a violation of G.S. 18B-302 for the possession
2 or consumption of alcoholic beverages was obtained as a result of the person
3 seeking medical assistance or assisting in seeking medical assistance for the
4 alcohol-related overdose.

5 (b) Limited Immunity for Overdose Victim. – The immunity described in subsection (a)
6 of this section shall extend to the person who needed medical ~~assistance~~ assistance, whether that
7 person is the subject of another person's request for medical assistance or whether that person
8 requested medical assistance for himself or herself, if the requirements in subdivisions (1), (1a),
9 (4), and (5) of subsection (a) are satisfied.

10 (c) Probation or Release. – A person shall not be subject to arrest or revocation of pretrial
11 release, probation, parole, or post-release if the arrest or revocation is based on an offense for
12 which the person is immune from prosecution under subsection (a) or (b) of this section. The
13 arrest of a person for an offense for which subsection (a) or (b) of this section may provide the
14 person with immunity will not itself be deemed to be a commission of a new criminal offense in
15 violation of a condition of the person's pretrial release, condition of probation, or condition of
16 parole or post-release.

17 (d) Civil Liability for Arrest or Charges. – In addition to any other applicable immunity
18 or limitation on civil liability, a law enforcement officer who, acting in good faith, arrests or
19 charges a person who is thereafter determined to be entitled to immunity under this section shall
20 not be subject to civil liability for the arrest or filing of charges."

21 **SECTION 2.** This act becomes effective October 1, 2021, and applies to acts on or
22 after that date.