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H.B. 205
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Galonski

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SUMMARY

- Provides immunity from arrest, charges, prosecution, conviction, or penalty for certain offenses involving drug paraphernalia to a person who seeks or obtains medical assistance for a drug overdose if all of the following apply:
 - The evidence of the obtaining, possession, or use of drug paraphernalia was obtained as a result of the person seeking medical help.
 - Within 30 days after seeking or obtaining the medical assistance, the person seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or addiction treatment professional.
 - The person who obtains the screening and receives the referral submits documentation to any prosecuting attorney, upon request, that verifies that the person satisfied those requirements.
- Excludes from immunity a person who is under a community or post-release control sanction or who twice previously has been granted immunity under these provisions.
- Requires a court or the Parole Board to first consider drug treatment or mitigation of the penalty for violation of a community or post-release control sanction resulting from seeking or obtaining medical help as described above.

DETAILED ANALYSIS

Medical assistance for overdose

Immunity from prosecution

The bill provides immunity from arrest, charges, prosecution, conviction, or penalty for possessing drug abuse instruments, illegal use or possession of drug paraphernalia, and illegal use or possession of marijuana drug paraphernalia (“drug paraphernalia offenses”) if a person seeks medical help for an overdose or experiences an overdose and receives medical

assistance. Similar immunity currently exists for a minor drug possession offense when a person seeks or obtains medical assistance for an overdose. A person is qualified for immunity if the person is not on community control or post-release control and acts in good faith to seek or obtain medical help for another person who is experiencing a drug overdose, experiences a drug overdose and seeks medical help for that overdose, or is the subject of another person seeking or obtaining medical help for that overdose. The types of medical assistance covered by this provision include making a 9-1-1 call, contacting an on-duty peace officer, or transporting or presenting a person to a health care facility.¹

Under the bill, a person who meets the qualifications described above may not be arrested, charged, prosecuted, convicted, or penalized for drug paraphernalia offenses if all of the following apply:²

1. The evidence that would be the basis of the offense was obtained as a result of the person seeking medical assistance or experiencing an overdose and needing medical assistance.
2. Within 30 days after seeking or obtaining medical assistance, the person seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.
3. The person who obtains a screening and receives a referral as described in (2), upon the request of any prosecuting attorney, submits documentation verifying that the person satisfied the requirements of that paragraph.

No person may be granted immunity under the bill's provisions more than two times, and the immunity provisions do not apply to any person who twice previously has been granted immunity.³

Penalty for community control or post-release control violation

As under current law regarding minor drug possession, the bill gives a court directions regarding penalties in cases in which a person is found to be in violation of a community control sanction as a result of either (1) seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose, or (2) experiencing a drug overdose and seeking medical assistance for that overdose or being the person for whom medical assistance is sought. The court may either order the person's participation in a drug treatment program or impose the penalty for the violation while considering the person's overdose circumstance as a mitigating factor. A similar provision applies to cases before a court or the Parole Board in which a person is found to be in violation of a post-release control sanction.⁴

¹ R.C. 2925.11(B)(2)(a), 2925.12(B)(2), 2925.14(D)(3), and 2925.141(E)(2).

² R.C. 2925.11(B)(2)(b).

³ R.C. 2925.11(B)(2)(f).

⁴ R.C. 2925.11(B)(2)(c) and (d).

Evidence of other crimes

The bill does not limit the admissibility of evidence with regards to any crime other than the drug paraphernalia offenses or minor drug possession offenses committed by a person qualified for immunity under the bill.⁵

HISTORY

Action	Date
Introduced	04-16-19

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⁵ R.C. 2925.11(B)(2)(e)(i).