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Gordon

SYNOPSIS
“Good Samaritan Emergency Response Act”: eliminates criminal liability
for persons who seek medical assistance in response to drug overdose.

CURRENT VERSION OF TEXT
As reported by the Assembly Judiciary Committee on May 21, 2012, with
amendments.

(Sponsorship Updated As Of: 8/21/2012)
AN ACT concerning [drug overdose prevention] criminal liability for persons seeking medical assistance in response to drug overdoses, and supplementing Title 2C of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. This act shall be known and may be cited as the “Good Samaritan Emergency Response Act.”

2. The Legislature finds and declares that encouraging witnesses and victims of drug overdoses to seek medical assistance [by protecting them] saves lives and is in the best interests of the citizens of this State and [in instances where evidence was gained], as a result of the seeking of medical assistance, [these witnesses and victims should be protected] from [arrest, charge, prosecution, conviction]; penalties for parole and restraining order violations; and civil forfeiture of property; saves lives and is in the best interests of the citizens of this State, and other punitive measures.

3. As used in this act: "Drug", "drug overdose" means an acute condition including, but not limited to, physical illness, coma, mania, hysteria, or death resulting from the consumption or use of a controlled dangerous substance or another substance with which a controlled dangerous substance was combined and that a layperson would reasonably believe to be a drug overdose that requires medical assistance.

"Share" or "sharing" means providing a controlled dangerous substance, drug paraphernalia, or a hypodermic syringe, hypodermic needle, or any other instrument adapted for the use of a controlled dangerous substance or a controlled substance analog to another person without consideration or compensation.

4. a. A person who, in good faith, seeks medical assistance for someone experiencing a drug overdose shall not be:

(1) arrested, charged, prosecuted, or convicted for obtaining, possessing, using, [or] being under the influence of, or failing to make lawful disposition of, a controlled dangerous substance or controlled substance analog pursuant to subsection a., b., or c. of N.J.S.2C:35-10;

(2) arrested, charged, prosecuted, or convicted for [possessing

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:

Assembly AJU committee amendments adopted May 21, 2012.
an imitation controlled dangerous substance pursuant to subsection a. of N.J.S.2C:35-11;} inhaling the fumes of or possessing any toxic chemical pursuant to subsection b. of section 7 of P.L.1999, c.90 (C.2C:35-10.4);¹

(3) ¹ arrested, charged, prosecuted, or convicted for using, obtaining, attempting to obtain, or possessing any prescription legend drug or stramonium preparation pursuant to subsection b., d., or e. of section 8 of P.L.1999, c.90 (C.2C:35-10.5);

(4) arrested, charged, prosecuted, or convicted for acquiring or obtaining possession of a controlled dangerous substance or controlled substance analog by fraud pursuant to N.J.S.2C:35-13;

(5) arrested, charged, prosecuted, or convicted for unlawfully possessing a controlled dangerous substance that was lawfully prescribed or dispensed pursuant to N.J.S.2C:35-24;

(6)¹ arrested, charged, prosecuted, or convicted for using or possessing with ["the"]¹ intent to use drug paraphernalia pursuant to N.J.S.2C:36-2 or for having under his control or¹ possessing a hypodermic syringe, hypodermic needle, or any other instrument adapted for the use of a controlled dangerous substance or a controlled substance analog pursuant to subsection a. of N.J.S.2C:36-6;

¹[(4) arrested, charged, prosecuted, or convicted for sharing or possessing with the intent to share a controlled dangerous substance, drug paraphernalia, or a hypodermic syringe, hypodermic needle, or any other instrument adapted for the use of a controlled dangerous substance or a controlled substance analog;

(5)[(7)¹ subject to [(the)]¹ any of the penalties prescribed in section 5 of P.L.1999, c.334 (C.2C:35-5.8) for a violation of a restraining order issued pursuant to section 4 of P.L.1999, c.334 (C.2C:35-5.7);

¹[(6)](8)¹ subject to any sanction for a violation of a condition of parole as provided in sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65);

¹[(7)](9)¹ subject to the revocation or modification of the conditions of probation; or

¹[(8)](10)¹ subject to the provisions of N.J.S.2C:64-1 concerning property subject to forfeiture except that prima facie contraband shall be subject to forfeiture.

b. The provisions of subsection a. of this section shall only apply if:

(1) the person seeks medical assistance for another person who is experiencing a drug overdose and is in need of medical assistance; and

(2) the evidence for an arrest, 'charge,' prosecution, conviction, penalty, violation, revocation, modification, or seizure 'of property'¹
was "obtained" as a result of the seeking of medical assistance.

5. a. A person who experiences a drug overdose and who seeks medical assistance or is the subject of a good faith request for medical assistance pursuant to section 4 of this act shall not be:

(1) arrested, charged, prosecuted, or convicted for obtaining, possessing, using, "or" being under the influence of, or failing to make lawful disposition of, a controlled dangerous substance "or" controlled substance analog pursuant to subsection a., b., or c. of
N.J.S.2C:35-10;

(2) arrested, charged, prosecuted, or convicted for possessing an imitation controlled dangerous substance pursuant to subsection a. of N.J.S.2C:35-11; inhaling the fumes of or possessing any toxic chemical pursuant to subsection b. of section 7 of P.L.1999, c.90 (C.2C:35-10.4);

(3) arrested, charged, prosecuted, or convicted for using, obtaining, attempting to obtain, or possessing any prescription legend drug or stramonium preparation pursuant to subsection b., d., or e. of section 8 of P.L.1999, c.90 (C.2C:35-10.5);

(4) arrested, charged, prosecuted, or convicted for acquiring or obtaining possession of a controlled dangerous substance or controlled substance analog by fraud pursuant to N.J.S.2C:35-13;

(5) arrested, charged, prosecuted, or convicted for unlawfully possessing a controlled dangerous substance that was lawfully prescribed or dispensed pursuant to N.J.S.2C:35-24;

(6) arrested, charged, prosecuted, or convicted for using or possessing with "the" intent to use drug paraphernalia pursuant to N.J.S.2C:36-2 or for "having under his control or" possessing a hypodermic syringe, hypodermic needle, or any other instrument adapted for the use of a controlled dangerous substance or a controlled substance analog pursuant to subsection a. of N.J.S.2C:36-6;

"(4) arrested, charged, prosecuted, or convicted for sharing or possessing with the intent to share a controlled dangerous substance, drug paraphernalia, or a hypodermic syringe, hypodermic needle, or any other instrument adapted for the use of a controlled dangerous substance or a controlled substance analog;

(5) subject to "the" any of the penalties prescribed in section 5 of P.L.1999, c.334 (C.2C:35-5.8) for a violation of a restraining order issued pursuant to section 4 of P.L.1999, c.334 (C.2C:35-5.7);

(6) subject to any sanction for a violation of a condition of parole as provided in sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65);
subject to the revocation or modification of the conditions of probation; or

subject to the provisions of N.J.S.2C:64-1 concerning property subject to forfeiture except that prima facie contraband shall be subject to forfeiture.

b. The provisions of subsection a. of this section shall only apply if the evidence for an arrest, charge, prosecution, conviction, penalty, violation, revocation, modification, or seizure of property was obtained as a result of the seeking of medical assistance.

The act of seeking medical assistance for someone who is experiencing a drug overdose shall be considered a mitigating circumstance in a criminal prosecution for a violation of an offense defined in chapter 35 or 36 of Title 2C of the New Jersey Statutes for which a person is not provided criminal immunity pursuant to the provisions of section 4 or 5 of P.L. 2020, c. 5 (pending before the Legislature as this bill).

Notwithstanding any other law, rule, or regulation to the contrary, it shall be an affirmative defense in any criminal prosecution for a violation of N.J.S.2C:35-9 if evidence was obtained as a result of seeking or receiving medical assistance pursuant to section 4 or 5 of this act.

This act shall take effect immediately.