

[First Reprint]

**ASSEMBLY, No. 578**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

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**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)

1 AN ACT concerning <sup>1</sup>**[drug overdose prevention]** criminal liability  
 2 for persons seeking medical assistance in response to drug  
 3 overdoses,<sup>1</sup> and supplementing Title 2C of the Revised Statutes.

4  
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
 6 *of New Jersey:*

7  
 8 1. This act shall be known and may be cited as the “Good  
 9 Samaritan Emergency Response Act.”

10  
 11 2. The Legislature finds and declares that encouraging  
 12 witnesses and victims of drug overdoses to seek medical assistance  
 13 <sup>1</sup>**[by protecting them]** saves lives and is in the best interests of the  
 14 citizens of this State and<sup>1</sup>, in instances where evidence was  
 15 <sup>1</sup>**[gained]** obtained<sup>1</sup> as a result of the seeking of medical assistance,  
 16 <sup>1</sup>these witnesses and victims should be protected<sup>1</sup> from <sup>1</sup>**[:]**<sup>1</sup> arrest,  
 17 charge, prosecution, <sup>1</sup>**[and]**<sup>1</sup> conviction<sup>1</sup>**;** penalties for parole and  
 18 restraining order violations; and civil forfeiture of property; saves  
 19 lives and is in the best interests of the citizens of this State **]** , and  
 20 other punitive measures<sup>1</sup>.

21  
 22 3. As used in this act <sup>1</sup>**[** :

23 “Drug” , “drug<sup>1</sup> overdose” means an acute condition including,  
 24 but not limited to, physical illness, coma, mania, hysteria, or death  
 25 resulting from the consumption or use of a controlled dangerous  
 26 substance or another substance with which a controlled dangerous  
 27 substance was combined and that a layperson would reasonably  
 28 believe to be a drug overdose that requires medical assistance.

29 <sup>1</sup>**[**“Share” or “sharing” means providing a controlled dangerous  
 30 substance, drug paraphernalia, or a hypodermic syringe,  
 31 hypodermic needle, or any other instrument adapted for the use of a  
 32 controlled dangerous substance or a controlled substance analog to  
 33 another person without consideration or compensation.**]**<sup>1</sup>

34  
 35 4. a. A person who, in good faith, seeks medical assistance for  
 36 someone experiencing a drug overdose shall not be:

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

42 (2) arrested, charged, prosecuted, or convicted for <sup>1</sup>**[**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:

<sup>1</sup>Assembly AJU committee amendments adopted May 21, 2012.

1 an imitation controlled dangerous substance pursuant to subsection  
2 a. of N.J.S.2C:35-11;] inhaling the fumes of or possessing any  
3 toxic chemical pursuant to subsection b. of section 7 of P.L.1999,  
4 c.90 (C.2C:35-10.4);<sup>1</sup>

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

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

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

15 (6)<sup>1</sup> arrested, charged, prosecuted, or convicted for using or  
16 possessing with <sup>1</sup>[the]<sup>1</sup> intent to use drug paraphernalia pursuant to  
17 N.J.S.2C:36-2 or for <sup>1</sup>having under his control or<sup>1</sup> possessing a  
18 hypodermic syringe, hypodermic needle, or any other instrument  
19 adapted for the use of a controlled dangerous substance or a  
20 controlled substance analog pursuant to subsection a. of  
21 N.J.S.2C:36-6;

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

27 (5) [(7)<sup>1</sup> subject to <sup>1</sup>[the]<sup>1</sup> any of the penalties prescribed in  
28 section 5 of P.L.1999, c.334 (C.2C:35-5.8) for a violation of a  
29 restraining order issued pursuant to section 4 of P.L.1999, c.334  
30 (C.2C:35-5.7);

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

34 <sup>1</sup>[(7) [(9)<sup>1</sup> subject to the revocation or modification of the  
35 conditions of probation; or

36 <sup>1</sup>[(8) [(10)<sup>1</sup> subject to the provisions of N.J.S.2C:64-1  
37 concerning property subject to forfeiture except that prima facie  
38 contraband shall be subject to forfeiture.

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

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

44 (2) the evidence for an arrest, <sup>1</sup>charge,<sup>1</sup> prosecution, conviction,  
45 penalty, violation, revocation, modification, or seizure <sup>1</sup>of property<sup>1</sup>

1 was **'[gained] obtained'** as a result of the seeking of medical  
2 assistance.

3

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

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

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

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

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

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

27 (6)<sup>1</sup> arrested, charged, prosecuted, or convicted for using or  
28 possessing with **'[the]'** intent to use drug paraphernalia pursuant to  
29 N.J.S.2C:36-2 or for **'having under his control or** possessing a  
30 hypodermic syringe, hypodermic needle, or any other instrument  
31 adapted for the use of a controlled dangerous substance or a  
32 controlled substance analog pursuant to subsection a. of  
33 N.J.S.2C:36-6;

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

39 (5) **(7)**<sup>1</sup> subject to **'[the]'** any of the penalties prescribed in  
40 section 5 of P.L.1999, c.334 (C.2C:35-5.8) for a violation of a  
41 restraining order issued pursuant to section 4 of P.L.1999, c.334  
42 (C.2C:35-5.7);

43 **'[(6) (8)]'** subject to any sanction for a violation of a condition  
44 of parole as provided in sections 16 through 21 of P.L.1979, c.441  
45 (C.30:4-123.60 through 30:4-123.65);

- 1        **'[(7)] (9)'** subject to the revocation or modification of the  
2 conditions of probation; or
- 3        **'[(8)] (10)'** subject to the provisions of N.J.S.2C:64-1  
4 concerning property subject to forfeiture except that prima facie  
5 contraband shall be subject to forfeiture.
- 6        b. The provisions of subsection a. of this section shall only  
7 apply if the evidence for an arrest, **'charge,'** prosecution,  
8 conviction, penalty, violation, revocation, modification, or seizure  
9 **'of property'** was **'[gained] obtained'** as a result of the seeking of  
10 medical assistance.
- 11
- 12        6. The act of seeking medical assistance for someone who is  
13 experiencing a drug overdose shall be considered a mitigating  
14 circumstance in a criminal prosecution for a violation of an offense  
15 defined in chapter 35 or 36 of Title 2C of the New Jersey Statutes  
16 **'for which a person is not provided criminal immunity pursuant to**  
17 **the provisions of section 4 or 5 of P.L. , c. (C. ) (pending**  
18 **before the Legislature as this bill)'**.
- 19
- 20        7. Notwithstanding any other law, rule, or regulation to the  
21 contrary, it shall be an affirmative defense in any criminal  
22 prosecution for a violation of N.J.S.2C:35-9 if evidence was  
23 **'[gained] obtained'** as a result of seeking or receiving medical  
24 assistance pursuant to section 4 or 5 of this act.
- 25
- 26        8. This act shall take effect immediately.