

By: Representative McNeal

To: Judiciary B

HOUSE BILL NO. 1085

1 AN ACT TO PROVIDE CERTAIN IMMUNITY FOR PERSONS WHEN
 2 ASSISTANCE IS REQUESTED FOR A MEDICAL EMERGENCY CAUSED DUE TO
 3 CONSUMPTION OF ALCOHOL; TO BRING FORWARD SECTION 41-29-149.1,
 4 MISSISSIPPI CODE OF 1972, WHICH IS THE MISSISSIPPI MEDICAL
 5 EMERGENCY GOOD SAMARITAN ACT, FOR PURPOSES OF POSSIBLE AMENDMENT;
 6 AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** (1) A peace officer shall not take any person
 9 into custody based solely on the possession and consumption of
 10 alcohol if the peace officer, after making a reasonable
 11 determination and considering the facts and surrounding
 12 circumstances, reasonably believes that all of the following
 13 apply:

14 (a) The peace officer only has contact with such person
 15 because the person, acting in good faith, requested emergency
 16 medical assistance for an individual who reasonably appeared to be
 17 in need of medical assistance due to alcohol consumption and such
 18 person did not illegally provide alcohol to the individual who
 19 appeared to be in need of medical assistance due to alcohol
 20 consumption.



21 (b) The person:
22 (i) Provided his full name and any other relevant
23 information requested by the peace officer;
24 (ii) Remained at the scene with the individual who
25 reasonably appeared to be in need of medical assistance due to
26 alcohol consumption until emergency medical assistance arrived;
27 and
28 (iii) Cooperated with emergency medical assistance
29 personnel and peace officers at the scene.

30 (2) A person who meets the criteria of subsection (1) of
31 this section shall be immune from criminal prosecution for any
32 offense related solely to the possession and consumption of
33 alcohol.

34 (3) A person shall not initiate or maintain an action
35 against a peace officer or the employing state agency or political
36 subdivision based on the officer's compliance or failure to comply
37 with this section.

38 **SECTION 2.** Section 41-29-149.1, Mississippi Code of 1972, is
39 brought forward as follows:

40 41-29-149.1. (1) This section shall be known as the
41 "Mississippi Medical Emergency Good Samaritan Act."

42 (2) As used in this section, the following words shall have
43 the meanings ascribed:

44 (a) "Drug overdose" means an acute condition,
45 including, but not limited to, extreme physical illness, decreased



46 level of consciousness, respiratory depression, coma, mania, or
47 death, resulting from the consumption or use of a controlled
48 substance or dangerous drug in violation of this chapter or that a
49 layperson would reasonably believe to be resulting from the
50 consumption or use of a controlled substance or dangerous drug for
51 which medical assistance is required.

52 (b) "Drug violation" means:

53 (i) A violation of Section 41-29-139 for
54 possession of a controlled substance if the aggregate weight,
55 including any mixture, is less than four (4) grams of a solid
56 substance, less than twenty (20) dosage units, less than one (1)
57 milliliter of liquid substance, or, if the substance is placed
58 onto a secondary medium, has a combined weight of less than four
59 (4) grams;

60 (ii) A violation of Section 41-29-139 for
61 possession of thirty (30) grams or less of marijuana or ten (10)
62 grams or less of synthetic cannabinoids; or

63 (iii) A violation of Section 41-29-139(d) (2)
64 relating to possession and use of paraphernalia.

65 (c) "Medical assistance" means aid provided to a person
66 experiencing or believed to be experiencing a drug overdose by a
67 health care professional who is licensed, registered, or certified
68 under the laws of this state and who, acting within the lawful
69 scope of practice, may provide diagnosis, treatment, or emergency
70 services relative to the overdose.



71 (d) "Seeks medical assistance" means accesses or
72 assists in accessing the E-911 system or otherwise contacts or
73 assists in contacting law enforcement or a poison control center
74 or provides care to a person experiencing or believed to be
75 experiencing a drug overdose while awaiting the arrival of medical
76 assistance to aid the person.

77 (3) (a) Any person who in good faith seeks medical
78 assistance for someone who is experiencing a drug overdose shall
79 not be arrested, charged, or prosecuted for a drug violation if
80 there is evidence that the person is under the influence of a
81 controlled substance or in possession of a controlled substance as
82 referenced in subsection (2)(b) of this section.

83 (b) Any person who is experiencing a drug overdose and,
84 in good faith, seeks medical assistance or is the subject of a
85 request for medical assistance shall not be arrested, charged, or
86 prosecuted for a drug violation if there is evidence that the
87 person is under the influence of a controlled substance or in
88 possession of a controlled substance as referenced in subsection
89 (2)(b) of this section.

90 (c) A person shall also not be subject to, if related
91 to the seeking of medical assistance:

92 (i) Penalties for a violation of a permanent or
93 temporary protective order or restraining order;



94 (ii) Sanctions for a violation of a condition of
95 pretrial release, condition of probation, or condition of parole
96 based on a drug violation; or

97 (iii) Forfeiture of property pursuant to Section
98 41-29-153 or 41-29-176 for a drug violation, except that prima
99 facie contraband shall be subject to forfeiture.

100 (4) Nothing in this section shall be construed:

101 (a) To limit the admissibility of any evidence in
102 connection with the investigation or prosecution of a crime with
103 regard to a defendant who does not qualify for the protections of
104 subsection (3) of this section or with regard to other crimes
105 committed by a person who otherwise qualifies for protection
106 pursuant to subsection (3) of this section;

107 (b) To limit any seizure of evidence or contraband
108 otherwise permitted by law; and

109 (c) To limit or abridge the authority of a law
110 enforcement officer to detain or take into custody a person in the
111 course of an investigation or to effectuate an arrest for any
112 offense except as provided in subsection (3) of this section.

113 **SECTION 3.** This act shall take effect and be in force from
114 and after July 1, 2018.

