

218A.133 Exemption from prosecution for possession of controlled substance or drug paraphernalia if seeking assistance with drug overdose.

- (1) As used in this section:
 - (a) "Drug overdose" means an acute condition of physical illness, coma, mania, hysteria, seizure, cardiac arrest, cessation of breathing, or death which reasonably appears to be the result of consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe requires medical assistance; and
 - (b) "Good faith" does not include seeking medical assistance during the course of the execution of an arrest warrant, or search warrant, or a lawful search.
- (2) A person shall not be charged with or prosecuted for a criminal offense prohibiting the possession of a controlled substance or the possession of drug paraphernalia, for a violation of KRS 507.030(1)(d) or 507.040(1)(d), or for an offense punishable under KRS 218A.1412(3)(c) if:
 - (a) In good faith, medical assistance with a drug overdose is sought from a public safety answering point, emergency medical services, a law enforcement officer, or a health practitioner because the person:
 1. Requests emergency medical assistance for himself or herself or another person;
 2. Acts in concert with another person who requests emergency medical assistance; or
 3. Appears to be in need of emergency medical assistance and is the individual for whom the request was made;
 - (b) The person remains with, or is, the individual who appears to be experiencing a drug overdose until the requested assistance is provided; and
 - (c) The evidence for the charge or prosecution is obtained as a result of the drug overdose and the need for medical assistance.
- (3) The provisions of subsection (2) of this section shall not extend to the investigation and prosecution of any other crimes committed by a person who otherwise qualifies under this section.
- (4) When contact information is available for the person who requested emergency medical assistance, it shall be reported to the local health department. Health department personnel shall make contact with the person who requested emergency medical assistance in order to offer referrals regarding substance abuse treatment, if appropriate.
- (5) A law enforcement officer who makes an arrest in contravention of this section shall not be criminally or civilly liable for false arrest or false imprisonment if the arrest was based on probable cause.

Effective: July 15, 2024

History: Amended 2024 Ky. Acts ch. 174, sec. 7, effective July 15, 2024. -- Created 2015 Ky. Acts ch. 66, sec. 11, effective March 25, 2015.