

CS/CS/HB 595 – Alcohol or Drug Overdose Prosecutions

This bill creates s. 562.112, F.S., stating that “a person who gives alcohol to an individual under 21 years of age and who, acting in good faith, seeks medical assistance for the individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose may not be arrested, charged, prosecuted, or penalized for a violation of s. 562.11, F.S. or s. 562.111, F.S. if the evidence for such offense was obtained as a result of the person's seeking medical assistance.” Furthermore, “a person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and is in need of medical assistance may not be arrested, charged, prosecuted, or penalized for a violation of s. 562.11, F.S. or s. 562.111, F.S. if the evidence for such offense was obtained as a result of the person's seeking medical assistance.”

This bill also amends s. 893.21, F.S., adding the following (in bold): “a person acting in good faith who seeks medical assistance for an individual experiencing, **or believed to be experiencing, an alcohol-related or a drug-related overdose** may not be **arrested, charged, prosecuted, or penalized for a violation of s. 893.147(1), F.S. or s. 893.13(6), F.S., excluding paragraph (c)**, if the evidence for **such offense** was obtained as a result of the person's seeking medical assistance.” Furthermore, similar language is added for “a person who experiences, **or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose** and is in need of medical assistance.” Lastly, for both scenarios, a person acting in good faith for another individual believed to be experiencing an alcohol-related or a drug-related overdose and a person having a good faith belief that he or she is experiencing an alcohol-related or a drug-related overdose, this bill adds that the person “may not be penalized for a violation of a condition of pretrial release, probation, or parole if the evidence for such violation was obtained as a result of the person's seeking medical assistance.” Therefore, this bill adds alcohol and drug paraphernalia offenses to those offenses where immunity would apply to an individual. At the same time, by elaborating on what types of drug possession would be eligible for immunity, it applies a more restrictive definition than what is under current statute.

While the statutes referenced under s. 562.112, F.S. are misdemeanors, s. 562.11, F.S. provides a court with the option to order the suspension or revocation of a driver license for selling, giving, or serving alcoholic beverages to a person under age 21, and s. 562.111, F.S. requires that a court suspend or revoke the license of someone charged with the possession of alcohol under 21 years old.

Per DOC, in FY 17-18, 4,462 (adj.) offenders were sentenced for driving with a suspended, revoked, cancelled, or disqualified license, with 286 (adj.) sentenced to prison (mean sentence length=23.6 m, incarceration rate: 6.2% adj.-6.2% unadj.). There were 38 (adj.) offenders sentenced for careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury, with 16 (adj.) sentenced to prison (mean sentence length=23.6 m, incarceration rate: 42.1% adj.-42.9% unadj.). It is not known how many of these offenders would be impacted by this bill.

Per DOC, in FY 17-18, there were 2 (adj.) offenders sentenced under s. 893.13(6)(c), F.S., with 1 (adj.) sentenced to prison (sentence length=60.0 m, incarceration rate: 50.0% adj.-50.0% unadj.). There were no offenders sentenced under s. 893.147(1), F.S. It is not known how many offenders are currently excluded from sentencing under s. 893.13(6)(c), F.S., given the less restrictive definition of immunity for possession of a controlled substance under current statute, but its exclusion under this new language should not be enough to outweigh the expansion of immunity for alcohol and drug paraphernalia offenses.

**EDR FINAL ESTIMATE BASED ON ADOPTED IMPACT FOR
SB 530: **Negative Indeterminate****