

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 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 overdose and is in need of medical assistance may not be arrested, charged, prosecuted, or penalized for a violation of 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 alcohol overdose and preventing arrests when stating the following: “A person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol or a drug-related overdose may not be arrested, charged, prosecuted, or penalized for a violation of s. 893.147, F.S.” However, by adding s. 893.147, F.S. and deleting “possession of a controlled substance,” it removes such immunity for those possessing controlled substances. The same changes are also made for “a person who experiences, or has a good faith belief that he or she is experiencing, an alcohol or a drug-related overdose and is in need of medical assistance.” Furthermore, it adds that a 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.”

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.

Additionally, while decreasing the pool of potential offenders by adding alcohol and drug paraphernalia, this bill also removes someone possessing controlled substances from immunity, which could increase the pool of potential offenders. Per DOC, in FY 17-18, there were 21 (adj.) offenders sentenced under s. 893.147, F.S., with 2 (adj.) sentenced to prison (mean sentence length=36.0 m, incarceration rate: 9.5% adj.-10.0% unadj.). Also, there were 32,369 (adj.) offenders sentenced for drug possession offenses under

s. 893.13, F.S., and 2,831 (adj.) were sentenced to prison (mean sentence length=23.0 m, incarceration rate: 8.8% adj.-8.8% unadj.). It is not known how many offenders in the paraphernalia offense group would receive immunity, nor is it known how many additional offenders would be sentenced to prison that are currently receiving immunity for possessing controlled substances.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

Requested by: House