

2013 DRAFTING REQUEST

Bill

Received: 5/13/2013 Received By: phurley
Wanted: As time permits Same as LRB:
For: John Lehman (608) 266-1832 By/Representing: Beau
May Contact: Drafter: phurley
Subject: Criminal Law - drugs Addl. Drafters:
Criminal Law - miscellaneous Extra Copies:

Submit via email: YES
Requester's email: Sen.Lehman@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Criminal immunity for seeking emergency help

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 5/13/2013	jdyer 5/14/2013	rschluet 5/14/2013	_____			
/P1	phurley 5/20/2013			_____	srose 5/14/2013		
/1		jdyer 5/21/2013	phenry 5/21/2013	_____	mbarman 5/21/2013	lparisi 5/29/2013	

FE Sent For:

→ Not Needed

<END>

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/P1	phurley 5/20/2013			_____	srose 5/14/2013		
/1		jdyer 5/21/2013	phenry 5/21/2013	_____	mbarman 5/21/2013		

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/?	phurley 5/13/2013	jdyer 5/14/2013	rschluet 5/14/2013	_____			
/P1		<i>1 5/21 jld</i>	<i>5/21 dh</i>	<i>ph</i> <i>pk</i>	srose 5/14/2013		

FE Sent For:

<END>

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See attached

Drafting History:

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/? phurley PI 5/14 jld [Signature] =

FE Sent For:

<END>

Hurley, Peggy

From: Stafford, Beau
Sent: Monday, May 13, 2013 9:40 AM
To: Hurley, Peggy
Subject: Bill Draft

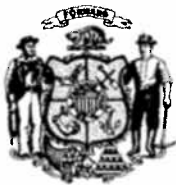
Good Morning Peggy –

Senator Lehman asked me to get a bill drafted that would limit criminal liability for people who call 911 in the event of a drug or alcohol overdose. I'm not sure exactly what degree of criminal liability he would be comfortable with, but I thought we could talk it over and see what might be right. I am compiling research from other states right now and I will send you a follow up email soon.

Thanks Peggy!

Beau Stafford

Chief of Staff
Office of Senator John Lehman
21st Senate District
319 South
608-266-1832
Beau.stafford@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2783/P
PJH/kj/ph

ju 2361/P1
1 MAR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

5-13-13
date

✓ Insert analysis

✓

Gen

1 AN ACT *to create* 939.18 of the statutes; **relating to:** granting immunity from
2 criminal prosecution for a person who seeks aid for another person. ✓

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 939.18 ✓ of the statutes is created to read:

4 **939.18 Immunity from criminal prosecution.** ✓ (1) DEFINITIONS. ✓ In this
5 section, "aider" means a person who does any of the following:

6 (a) Brings another person to an emergency room, hospital, fire station, or other
7 health care facility if the other person is, or the person believes him or her to be,
8 suffering from an overdose of, or other adverse reaction to, any controlled substance
9 or alcohol. ✓

10 (b) Summons a law enforcement officer, ambulance, emergency medical
11 technician, or other health care provider, to assist another person if the other person

1 is, or the person believes him or her to be, suffering from an overdose of, or other
2 adverse reaction to, any controlled substance or alcohol. ✓

3 (c) Dials the telephone number "911" ✓ or, in an area in which the telephone
4 number "911" is not available, the number for an emergency medical service
5 provider, to obtain assistance for another person if the other person is, or the person
6 believes him or her to be, suffering from an overdose of, or other adverse reaction to,
7 any controlled substance or alcohol. ✓

8 (2) ANONYMITY AND CONFIDENTIALITY. ✓ (a) Except as provided in this paragraph, ✓
9 an aider ✓ has the right to remain anonymous. ✓ The exercise of that right shall not
10 affect the manner in which a law enforcement officer, emergency medical technician,
11 or other health care provider performs his or her duties. No person may induce or
12 coerce or attempt to induce or coerce ✓ an aider who wishes to remain anonymous into
13 revealing his or her identity, unless the person has reasonable cause to suspect that
14 the aider poses an imminent risk of harm to himself or herself or to another person. ✓

15 (b) An aider may leave the presence of the law enforcement officer, emergency
16 medical technician, or hospital staff member at any time, and no person may follow
17 or pursue the aider, unless the person has reasonable cause to suspect that the aider
18 poses an imminent risk of harm to himself or herself or to another person. ✓

19 (3) IMMUNITY FROM CRIMINAL PROSECUTION. ✓ An aider is immune from prosecution
20 for any act or omission relating to the condition of the person on whose behalf the
21 aider commits any act described in sub. (1). ✓

(END)

Insert 2.20 ✓

d-note
↓

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2361/?ins

.....

INSERT ANALYSIS:

This bill provides immunity from certain criminal prosecutions for a person (aider) who summons aid for another person the aider believes is suffering an overdose of, or other adverse reaction to, alcohol or a controlled substance. Under the bill, if an aider brings another person to an emergency room or other health care facility or summons police or emergency medical assistance because the aider believes the other person is suffering an overdose or other adverse reaction, the aider generally has the right to remain anonymous and may leave the scene at any time.

Under the bill, the aider may not be prosecuted for using or possessing alcohol or a controlled substance under the circumstances leading to other person's adverse reaction and may not be prosecuted for any criminal activity, including the manufacture, delivery, or distribution of alcohol or a controlled substance, that caused the adverse reaction.

Under the bill, the aider may be required to identify himself or herself and may not be allowed to leave if a law enforcement officer, emergency medical technician, or other health care provider believes aider poses an imminent risk of harm or himself or herself or to another person.

INSERT 2.20:

NO
for any of the following:

(a) An act or omission, including the manufacture, distribution, delivery, possession, or use of the alcohol or the controlled substance that caused the condition of the person on whose behalf the aider commits an act described in sub. (1).

(b) Possession or use of alcohol or a controlled substance under the circumstances surrounding or leading to his or her commission of an act described in sub. (1).

(end ins 2-20)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

PI
LRB-2361/3dn

PJH
Jld

date

Senator Lehman, ✓

Please review this preliminary draft to ensure it is consistent with your intent. ✓ In this draft, any person who takes another person suffering from a drug or alcohol reaction to an emergency room or other health care facility or who calls 911 or otherwise summons law enforcement or medical assistance is immune from certain types of criminal prosecution. ✓

The draft confers immunity from prosecution for using or possessing alcohol or drugs under the circumstances leading to the other person's adverse reaction, ✓ and immunity from prosecution for a crime relating to another person's reaction, such as manufacturing, delivering, or distributing the controlled substance that harmed the other person. ✓

However, the draft does not confer immunity for a crime that is not related to the other person's condition. For example, if a responding law enforcement officer observed another crime at the scene, the person could be prosecuted for that crime. The draft allows the person to remain anonymous and to leave the scene, unless he or she poses an imminent harm to himself or herself or to others. ✓

Please let me know if you have any questions or would like to discuss this draft further. When the draft meets your approval, I can redraft it in introducible form. ✓

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2361/P1dn
PJH:jld:rs

May 14, 2013

Senator Lehman,

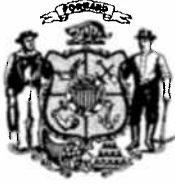
Please review this preliminary draft to ensure it is consistent with your intent. In this draft, any person who takes another person suffering from a drug or alcohol reaction to an emergency room or other health care facility or who calls 911 or otherwise summons law enforcement or medical assistance is immune from certain types of criminal prosecution.

The draft confers immunity from prosecution for using or possessing alcohol or drugs under the circumstances leading to the other person's adverse reaction, and immunity from prosecution for a crime relating to another person's reaction, such as manufacturing, delivering, or distributing the controlled substance that harmed the other person.

However, the draft does not confer immunity for a crime that is not related to the other person's condition. For example, if a responding law enforcement officer observed another crime at the scene, the person could be prosecuted for that crime. The draft allows the person to remain anonymous and to leave the scene, unless he or she poses an imminent harm to himself or herself or to others.

Please let me know if you have any questions or would like to discuss this draft further. When the draft meets your approval, I can redraft it in introducible form.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2361/P1
PJH:jld:rs

MR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2013 BILL
5-20-13
J-note

4
certain
Regen

1 AN ACT to create 939.18 of the statutes; relating to: granting immunity from
2 criminal prosecution for a person who seeks aid for another person.

Analysis by the Legislative Reference Bureau

This bill provides immunity from certain criminal prosecutions for a person (aider) who summons aid for another person the aider believes is suffering an overdose of, or other adverse reaction to, alcohol or a controlled substance. Under the bill, if an aider brings another person to an emergency room or other health care facility or summons police or emergency medical assistance because the aider believes the other person is suffering an overdose or other adverse reaction, the aider generally has the right to remain anonymous and may leave the scene at any time.

Under the bill, the aider may not be prosecuted for using or possessing alcohol or a controlled substance under the circumstances leading to other person's adverse reaction and may not be prosecuted for any criminal activity, including the manufacture, delivery, or distribution of alcohol or a controlled substance, that caused the adverse reaction. NOT

Under the bill, the aider may be required to identify himself or herself and may not be allowed to leave if a law enforcement officer, emergency medical technician, or other health care provider believes aider poses an imminent risk of harm or himself or herself or to another person.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 ^X
SECTION 1. 939.18 of the statutes is created to read:

2 **939.18 Immunity from criminal prosecution.** (1) DEFINITIONS. In this
3 section, "aider" means a person who does any of the following:

4 (a) Brings another person to an emergency room, hospital, fire station, or other
5 health care facility if the other person is, or the person believes him or her to be,
6 suffering from an overdose of, or other adverse reaction to, any controlled substance
7 or alcohol.

8 (b) Summons a law enforcement officer, ambulance, emergency medical
9 technician, or other health care provider, to assist another person if the other person
10 is, or the person believes him or her to be, suffering from an overdose of, or other
11 adverse reaction to, any controlled substance or alcohol.

12 (c) Dials the telephone number "911" or, in an area in which the telephone
13 number "911" is not available, the number for an emergency medical service
14 provider, to obtain assistance for another person if the other person is, or the person
15 believes him or her to be, suffering from an overdose of, or other adverse reaction to,
16 any controlled substance or alcohol.

17 (2) ANONYMITY AND CONFIDENTIALITY. (a) Except as provided in this paragraph,
18 an aider has the right to remain anonymous. The exercise of that right shall not
19 affect the manner in which a law enforcement officer, emergency medical technician,
20 or other health care provider performs his or her duties. No person may induce or
21 coerce or attempt to induce or coerce an aider who wishes to remain anonymous into
22 revealing his or her identity, unless the person has reasonable cause to suspect that
23 the aider poses an imminent risk of harm to himself or herself or to another person.

24 (b) An aider may leave the presence of the law enforcement officer, emergency
25 medical technician, or hospital staff member at any time, and no person may follow

1 or pursue the aider, unless the person has reasonable cause to suspect that the aider
2 poses an imminent risk of harm to himself or herself or to another person.

3 (3) IMMUNITY FROM CRIMINAL PROSECUTION. An aider is immune from prosecution
4 for any of the following:

5 ~~(a) An act or omission, including the manufacture, distribution, delivery,
6 possession, or use of the alcohol or the controlled substance, that caused the condition
7 of the person on whose behalf the aider commits an act described in sub. (1).~~

8 ~~(b) Possession or use of alcohol or a controlled substance under the
9 circumstances surrounding or leading to his or her commission of an act described
10 in sub. (1).~~

11

(END)

Insert 3.10 ✓

d-note
↓

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2361/P1ins
PJH:jld:rs

1 INSERT 3.10:

2 ~~the possession or use of alcohol~~ ^{NO} or the possession or use of a controlled substance ₄

3 under the circumstances surrounding or leading to his or her commission of an act

4 described in sub. (1). ✓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2361/31dn

PJH:jld:rs

↑

keep

date

Beau,

Please review this draft to ensure it is consistent with your intent. After we spoke, I changed my mind about leaving in two separate subsections conferring immunity for possessing or using alcohol or a controlled substance. I believe that the broad language in s. 939.18(3) is sufficient to cover the situations about which you are concerned. Please let me know if you would like any changes or would like to discuss this draft further.

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Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2361/1dn
PJH:jld:ph

May 21, 2013

Beau,

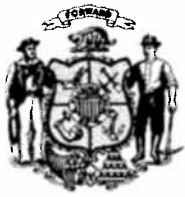
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Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

Parisi, Lori

From: Stafford, Beau
Sent: Wednesday, May 29, 2013 3:51 PM
To: LRB.Legal
Subject: Draft Review: LRB -2361/1 Topic: Criminal immunity for seeking emergency help

Please Jacket LRB -2361/1 for the SENATE.



2013 SENATE BILL 215

Before Changes

June 11, 2013 – Introduced by Senators LEHMAN, HARRIS, MILLER, T. CULLEN and
RISSER, cosponsored by Representatives BEWLEY, WRIGHT, C. TAYLOR, KESSLER,
POPE, DOYLE, OHNSTAD, JOHNSON and A. OTT. Referred to Committee on
Workforce Development, Forestry, Mining, and Revenue.

- 1 AN ACT to create 939.18 of the statutes; relating to: granting immunity from
2 certain criminal prosecutions for a person who seeks aid for another person.

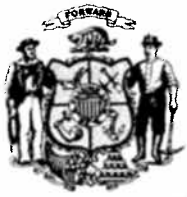
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This bill provides immunity from certain criminal prosecutions for a person (aider) who summons aid for another person the aider believes is suffering an overdose of, or other adverse reaction to, alcohol or a controlled substance. Under the bill, if an aider brings another person to an emergency room or other health care facility or summons police or emergency medical assistance because the aider believes the other person is suffering an overdose or other adverse reaction, the aider generally has the right to remain anonymous and may leave the scene at any time.

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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 939.18 of the statutes is created to read:



Requested by
Jeff ... SCC office
06-13-2013
MB

2013 SENATE BILL 215

June 11, 2013 - Introduced by Senators LEHMAN, HARRIS, MILLER, T. CULLEN and
RISSER, cosponsored by Representatives BEWLEY, WRIGHT, C. TAYLOR, KESSLER,
POPE, DOYLE, OHNSTAD, JOHNSON and A. OTT. Referred to Committee on
Judiciary and Labor.

Changed
Referral

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