

## CHAPTER 2012-36

### Senate Bill No. 278

An act relating to preventing deaths from drug-related overdoses; providing a short title; creating s. 893.21, F.S.; providing that a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for specified offenses in certain circumstances; providing that a person who experiences a drug-related overdose and needs medical assistance may not be charged, prosecuted, or penalized for specified offenses in certain circumstances; providing that the protections from prosecution for specified offenses are not grounds for suppression of evidence in other prosecutions; amending s. 921.0026, F.S.; amending mitigating circumstances under which a departure from the lowest permissible criminal sentence is reasonably justified to include circumstances in which a defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose; providing an effective date.

WHEREAS, some research suggests that in a majority of cases of fatal drug overdose another person was aware of or present during the decedent's fatal drug use and that in one-third of the cases someone recognized the decedent's distress, and

WHEREAS, many people cite fear of police involvement or fear of arrest as their primary reason for not seeking immediate help for a person thought to be experiencing a drug overdose, and

WHEREAS, it is in the public interest to encourage a person who is aware of or present during another individual's drug overdose to seek medical assistance for that individual, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "911 Good Samaritan Act."

Section 2. Section 893.21, Florida Statutes, is created to read:

893.21 Drug-related overdoses; medical assistance; immunity from prosecution.—

(1) A person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized pursuant to this chapter for possession of a controlled substance if the evidence for possession of a controlled substance was obtained as a result of the person's seeking medical assistance.

(2) A person who experiences a drug-related overdose and is in need of medical assistance may not be charged, prosecuted, or penalized pursuant to this chapter for possession of a controlled substance if the evidence for

possession of a controlled substance was obtained as a result of the overdose and the need for medical assistance.

(3) Protection in this section from prosecution for possession offenses under this chapter may not be grounds for suppression of evidence in other criminal prosecutions.

Section 3. Paragraph (n) is added to subsection (2) of section 921.0026, Florida Statutes, to read:

921.0026 Mitigating circumstances.—This section applies to any felony offense, except any capital felony, committed on or after October 1, 1998.

(2) Mitigating circumstances under which a departure from the lowest permissible sentence is reasonably justified include, but are not limited to:

(n) The defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.

Section 4. This act shall take effect October 1, 2012.

Approved by the Governor April 6, 2012.

Filed in Office Secretary of State April 6, 2012.