

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

Regular Session, 2023

H. B. 23- 24

A BILL FOR AN ACT

To provide an affirmative defense against drug possession charges in the case of an overdose.

**BE IT ENACTED BY THE 23RD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and Purpose.** The Legislature intends to save lives by
2 increasing timely medical attention to drug overdose victims through the
3 establishment of limited immunity from prosecution for people who seek medical
4 assistance in a drug overdose situation. Drug overdose is the leading cause of
5 unintentional injury death in the United States, ahead of motor vehicle-related
6 deaths. Drug deaths in the United States, which fell for the first time in 25 years in
7 2018, rose to record numbers in 2019 and are continuing to climb, a resurgence that
8 is being complicated and perhaps worsened by the coronavirus pandemic.

9 Nearly 72,000 Americans died from drug overdoses in 2019, according to
10 preliminary data released Wednesday by the Centers for Disease Control and
11 Prevention — an increase of 5 percent from 2018. Drug deaths have risen an
12 average of 13 percent so far this year over last year, according to mortality data

1 from local and state governments collected by The New York Times as of July
2 2020, covering 40 percent of the U.S. population.

3 The Legislature finds that many drug overdose fatalities occur because
4 peers delay or forego calling 911 for fear of arrest or police involvement, which
5 researchers continually identify as the most significant barrier to the ideal first
6 response of calling emergency services. Moreover, many victims of drug overdose
7 also fear arrest and refuse to call 911 or seek medical assistance during an overdose.
8 The Legislature finds that lives can be saved by providing limited immunity during
9 drug overdose situation. Accordingly, the purpose of this legislation to protect
10 against drug possession charges if the evidence for the charge of possession of a
11 controlled substance was obtained as a result of the person experiencing the
12 overdose or a peer seeking medical assistance for someone else.

13 **Section 2. Amendment.** Title 6, Chapter 2, Article 2 Defenses of the
14 Commonwealth Code is hereby amended by adding a new section 254 to read as
15 follows:

16 **“§ 254. Defense: Overdose.**

17 (a) A person charged with possession of less than 5 grams of a controlled
18 substance, acting in good faith who seeks medical assistance for a drug-related
19 overdose shall be able to raise an affirmative defense to the charge of possession of
20 a controlled substance pursuant to this article, if the evidence for the charge of

1 possession of a controlled substance was obtained as a result of the person seeking
2 medical assistance.

3 (b) The protection in this section from prosecution for possession of
4 a controlled substance shall not apply, regardless of the weight, to any other
5 criminal charges.”

6 **Section 3. Severability.** If any provisions of this Act or the application of
7 any such provision to any person or circumstance should be held invalid by a court
8 of competent jurisdiction, the remainder of this Act or the application of its
9 provisions to persons or circumstances other than those to which it is held invalid
10 shall not be affected thereby.

11 **Section 4. Savings Clause.** This Act and any repealer contained herein
12 shall not be construed as affecting any existing right acquired under contract or
13 acquired under statutes repealed or under any rule, regulation, or order adopted
14 under the statutes. Repealers contained in this Act shall not affect any proceeding
15 instituted under or pursuant to prior law. The enactment of the Act shall not have
16 the effect of terminating, or in any way modifying, any liability, civil or criminal,
17 which shall already be in existence on the date this Act becomes effective.

18 **Section 5. Effective Date.** This Act shall take effect upon its approval by
19 the Governor, or its becoming law without such approval.

Prefiled: 3/3/2023

HOUSE BILL 23- 24

Date: _____

Introduced by: _____

Malcom J. Omar
Rep. Malcom J. Omar

Reviewed for Legal Sufficiency by:

James A. Dargatzis
House Legal Counsel