



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

January 2017 Special Session Assembly Bill 3	Assembly Amendment 2
<i>Memo published: April 24, 2017</i>	<i>Contact: Jessica Karls-Ruplinger, Deputy Director</i>

CURRENT LAW

Current law provides immunity from criminal prosecution for certain offenses for a person who aides (“aider”) another person who is suffering from an overdose of a controlled substance (“aided person”). Specifically, an aider is immune from prosecution for the possession of a controlled substance or controlled substance analog, possession of drug paraphernalia, or possession of a masking agent (“possession offenses”) under the circumstances surrounding or leading to his or her actions as an aider.

An “aider” is a person who does any of the following if the aided person is, or the person believes him or her to be, suffering from an overdose of, or other adverse reaction to, a controlled substance or controlled substance analog: (1) brings the aided person to an emergency room, hospital, fire station, or other health care facility; (2) summons a law enforcement officer, ambulance, emergency medical technician, or other health care provider to assist the aided person; or (3) dials the telephone number “911” or, in an area in which “911” is not available, the number for an emergency medical service provider to obtain assistance for the aided person.

JANUARY 2017 SPECIAL SESSION ASSEMBLY BILL 3

January 2017 Special Session Assembly Bill 3 extends the immunity provided under current law in two ways. First, the bill provides that an aider may not have his or her parole, probation, or extended supervision revoked under the circumstances surrounding or leading to his or her actions as an aider.

Second, the bill provides immunity from criminal prosecution for possession offenses and prohibits the revocation of parole, probation, or extended supervision for an aided person under the circumstances surrounding or leading to the aider's actions.

ASSEMBLY AMENDMENT 2

Assembly Amendment 2 makes the following changes to the bill and current law:

- Aider – Criminal Prosecution and Revocation: For the aider to be immune from criminal prosecution or revocation, an aider's attempt to obtain assistance for the aided person must occur immediately after the aider believes the aided person is suffering from the overdose or other adverse reaction.
- Aided Person – Revocation: For the aided person to be immune from revocation, the aided person must complete a treatment program as a condition of his or her parole, probation, or extended supervision, or, if a treatment program is unavailable or would be prohibitive financially, agree to be imprisoned in the county jail for not less than 15 days.
- Aided Person – Criminal Prosecution: If the aided person is subject to criminal prosecution for a possession offense, the district attorney must offer the aided person a deferred prosecution agreement that includes the completion of a treatment program.
- Sunset: Sunsets the changes in the bill and the amendment, described above, on the first day of the 37th month beginning after publication of the bill, if enacted.

In addition, the amendment makes changes to the definition of "aider." First, it requires the aider to make contact with: (1) an individual who staffs the emergency room, hospital, fire station, or other health care facility to which the aider brings the aided person; (2) a law enforcement officer, ambulance, emergency medical technician, or other health care provider summoned by the aider; or (3) an individual answering "911" or the number for an emergency medical service provider called by the aider. Second, a person is an "aider" if the aided person is, or if a **reasonable person would believe** him or her to be, suffering from an overdose or other adverse reaction.

BILL HISTORY

Assembly Amendment 2 was offered by Representatives Ott and Nygren on April 19, 2017. On April 20, 2017, the Assembly Committee on Judiciary recommended adoption of the amendment on a vote of Ayes, 9; Noes, 0, and passage of the bill, as amended, on a vote of Ayes, 8; Noes, 1.

JKR:ksm