

Senate Bill 762

Sponsored by Senator BONAMICI; Senator DINGFELDER, Representative SHIELDS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Precludes admission of evidence in prosecution for possession of controlled substance or certain alcohol-related offenses if evidence is obtained as result of person seeking medical assistance for drug or alcohol overdose.

Directs Oregon Criminal Justice Commission to classify seeking medical assistance for drug or alcohol overdose as mitigating factor in sentencing if person is convicted of delivery or manufacture of controlled substance and evidence is obtained as result of seeking medical assistance.

A BILL FOR AN ACT

1
2 Relating to evidence obtained as a result of seeking medical assistance.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) Evidence is inadmissible in a prosecution for an offense described in ORS**
5 **471.410, 471.430, 475.840 (3), 475.854, 475.864, 475.874, 475.884 or 475.894 if:**

6 (a)(A) **The evidence is obtained as a result of the defendant seeking medical assistance**
7 **for another person; and**

8 (B) **The defendant reasonably believed that the person for whom medical assistance was**
9 **sought was experiencing an alcohol or controlled substance overdose; or**

10 (b)(A) **The evidence is obtained as a result of any person seeking medical assistance for**
11 **the defendant; and**

12 (B) **It was reasonable for the person seeking medical assistance to believe that the de-**
13 **fendant was experiencing an alcohol or controlled substance overdose.**

14 (2) **A defendant who objects to the use of evidence in violation of subsection (1) of this**
15 **section shall file a motion to suppress, which shall be heard and determined by any depart-**
16 **ment of the trial court in advance of trial. The state shall have the burden of proving by a**
17 **preponderance of the evidence that the admission of the challenged evidence does not violate**
18 **subsection (1) of this section.**

19 (3) **The Oregon Criminal Justice Commission shall classify seeking medical assistance as**
20 **a mitigating factor that a court may consider as a substantial and compelling reason to im-**
21 **pose a downward departure from a presumptive sentence if:**

22 (a) **The sentence is being imposed for the manufacture or delivery of a controlled sub-**
23 **stance; and**

24 (b) **The evidence that led to the conviction was obtained under the circumstances de-**
25 **scribed in subsection (1)(a) or (b) of this section.**

26 **SECTION 2. Section 1 of this 2009 Act applies to evidence obtained on or after the ef-**
27 **fective date of this 2009 Act.**

28

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.