House of Representatives

General Assembly

File No. 655

January Session, 2011

House Bill No. 6554

House of Representatives, April 28, 2011

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING EMERGENCY MEDICAL ASSISTANCE FOR PERSONS EXPERIENCING A DRUG OVERDOSE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 21a-279 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(a) Any person who possesses or has under his control any quantity of any narcotic substance, except as authorized in this chapter, for a first offense, may be imprisoned not more than seven years or be fined not more than fifty thousand dollars, or be both fined and imprisoned; and for a second offense, may be imprisoned not more than fifteen years or be fined not more than one hundred thousand dollars, or be both fined and imprisoned; and for any subsequent offense, may be imprisoned not more than twenty-five years or be fined not more than two hundred fifty thousand dollars, or be both fined and imprisoned.

(b) Any person who possesses or has under his control any quantity of a hallucinogenic substance other than marijuana or four ounces or

more of a cannabis-type substance, except as authorized in this chapter, for a first offense, may be imprisoned not more than five years or be fined not more than two thousand dollars or be both fined and imprisoned, and for a subsequent offense may be imprisoned not more than ten years or be fined not more than five thousand dollars or be both fined and imprisoned.

(c) Any person who possesses or has under his control any quantity of any controlled substance other than a narcotic substance, or a hallucinogenic substance other than marijuana or who possesses or has under his control less than four ounces of a cannabis-type substance, except as authorized in this chapter, for a first offense, may be fined not more than one thousand dollars or be imprisoned not more than one year, or be both fined and imprisoned; and for a subsequent offense, may be fined not more than three thousand dollars or be imprisoned not more than five years, or be both fined and imprisoned.

(d) Any person who violates subsection (a), (b) or (c) of this section in or on, or within one thousand five hundred feet of, the real property comprising a public or private elementary or secondary school and who is not enrolled as a student in such school or a licensed child day care center, as defined in section 19a-77, that is identified as a child day care center by a sign posted in a conspicuous place shall be imprisoned for a term of two years, which shall not be suspended and shall be in addition and consecutive to any term of imprisonment imposed for violation of subsection (a), (b) or (c) of this section.

(e) As an alternative to the sentences specified in subsections (a) and (b) and specified for a subsequent offense under subsection (c) of this section, the court may sentence the person to the custody of the Commissioner of Correction for an indeterminate term not to exceed three years or the maximum term specified for the offense, whichever is the lesser, and at any time within such indeterminate term and without regard to any other provision of law regarding minimum term of confinement, the Commissioner of Correction may release the convicted person so sentenced subject to such conditions as he may

47 impose including, but not limited to, supervision by suitable authority.
48 At any time during such indeterminate term, the Commissioner of
49 Correction may revoke any such conditional release in his discretion
50 for violation of the conditions imposed and return the convicted
51 person to a correctional institution.

52 (f) To the extent that it is possible, medical treatment rather than
53 criminal sanctions shall be afforded individuals who breathe, inhale,
54 sniff or drink the volatile substances defined in subdivision (49) of
55 section 21a-240.

56 (g) The provisions of subsections (a) to (c), inclusive, of this section
57 shall not apply to any person who (1) in good faith, seeks medical
58 assistance for another person experiencing a drug-related overdose, or
59 (2) experiences a drug-related overdose and, in good faith, seeks
60 medical assistance for himself or herself or for whom another person,
61 in good faith, seeks medical assistance, if evidence of the possession or
62 control of a controlled substance in violation of subsection (a), (b) or (c)
63 of this section was obtained as a result of the seeking of such medical
64 assistance.

65 Sec. 2. Section 21a-267 of the general statutes is repealed and the
66 following is substituted in lieu thereof (*Effective October 1, 2011*):

67 (a) No person shall use or possess with intent to use drug
68 paraphernalia, as defined in subdivision (20) of section 21a-240, to
69 plant, propagate, cultivate, grow, harvest, manufacture, compound,
70 convert, produce, process, prepare, test, analyze, pack, repack, store,
71 contain or conceal, or to ingest, inhale or otherwise introduce into the
72 human body, any controlled substance as defined in subdivision (9) of
73 section 21a-240. Any person who violates any provision of this
74 subsection shall be guilty of a class C misdemeanor.

75 (b) No person shall deliver, possess with intent to deliver or
76 manufacture with intent to deliver drug paraphernalia knowing, or
77 under circumstances where one reasonably should know, that it will
78 be used to plant, propagate, cultivate, grow, harvest, manufacture,

79 compound, convert, produce, process, prepare, test, analyze, pack,
80 repack, store, contain or conceal, or to ingest, inhale or otherwise
81 introduce into the human body, any controlled substance. Any person
82 who violates any provision of this subsection shall be guilty of a class
83 A misdemeanor.

84 (c) Any person who violates subsection (a) or (b) of this section in or
85 on, or within one thousand five hundred feet of, the real property
86 comprising a public or private elementary or secondary school and
87 who is not enrolled as a student in such school shall be imprisoned for
88 a term of one year which shall not be suspended and shall be in
89 addition and consecutive to any term of imprisonment imposed for
90 violation of subsection (a) or (b) of this section.

91 (d) The provisions of subsection (a) of this section shall not apply to
92 any person who (1) in good faith, seeks medical assistance for another
93 person experiencing a drug-related overdose, or (2) experiences a
94 drug-related overdose and, in good faith, seeks medical assistance for
95 himself or herself or for whom another person, in good faith, seeks
96 medical assistance, if evidence of the use or possession of drug
97 paraphernalia in violation of said subsection was obtained as a result
98 of the seeking of such medical assistance.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2011*	21a-279
Sec. 2	*October 1, 2011*	21a-267

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 $	FY 13 $
Judicial Dept.	GF - Potential Revenue Loss	Less than 10,000	Less than 10,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill exempts a person from being charged with possession of narcotics when they seek emergency medical assistance for themselves or another person experiencing a drug overdose. To the extent this change results in less fine money being collected from individuals no longer being charged with possession of narcotics, a revenue loss of less than $10,000 to the General Fund would result.[1]

The Out Years

The annualized ongoing revenue identified above would remain constant into the future since fine amounts are set by statute.

Sources: Judicial Department Offenses and Revenue Database

[1] In 2010 there were 126 offenses for possession of narcotics, with $119,905 in revenue collected.

OLR Bill Analysis
HB 6554

AN ACT CONCERNING EMERGENCY MEDICAL ASSISTANCE FOR PERSONS EXPERIENCING A DRUG OVERDOSE.

SUMMARY:

This bill prohibits prosecuting a person for possessing drug or drug paraphernalia based solely on discovery of evidence arising from that person's efforts to seek medical assistance for a drug overdose. It applies to anyone who:

1. in good faith, seeks medical assistance for someone experiencing a drug-related overdose or

2. is experiencing a drug overdose and he or she or another person, in good faith, seeks medical attention.

EFFECTIVE DATE: October 1, 2011

POSSESSION PENALTIES

Drugs

Penalties for drug possession vary considerably depending on the type of drug and quantity involved. They range from (1) imprisonment for up to one year, a fine of up to $1,000, or both to (2) imprisonment for up to 25 years, a fine of up to $250,000, or both.

Drug Paraphernalia

Penalties for possession of drug paraphernalia vary depending on whether the paraphernalia is for personal use or sale. It ranges from imprisonment for up to three months, a fine of up to $500, or both to imprisonment for up to one year, a fine of up to $2,000, or both.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable
Yea 45 Nay 0 (04/14/2011)