



**NEW YORK
CITY BAR**

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**REPORT ON LEGISLATION BY
THE COMMITTEE ON DRUGS & THE LAW**

**A.2063-A
S.4454-A**

**M. of A. Gottfried
Sen. DeFrancisco**

AN ACT to amend the criminal procedure law, in relation to seeking or receiving health care for a drug or alcohol overdose or other life threatening medical emergency.

THIS BILL IS APPROVED

The Committee on Drugs and the Law (The “Committee”) of the New York City Bar Association supports Assembly Bill A.2063-A and Senate Bill S.4454-A (the “Bill”).

Specifically, the Bill provides that any person, who, in good faith, seeks health care for someone experiencing a drug or alcohol overdose or other life threatening medical emergency, or any person who is experiencing an overdose or other life threatening medical emergency, shall not be arrested, charged, prosecuted for or convicted of a controlled substance or marijuana offense (other than an offense involving sale for compensation), or for possession of alcohol by a person under twenty-one years, or for possession of drug paraphernalia, with respect to any controlled substance, marijuana, alcohol or drug paraphernalia that was obtained as a result of such seeking or receiving of health care. Therefore, enactment of the Bill would permit all persons suffering from a drug or alcohol overdose or other life threatening medical emergency, or persons witnessing, or with knowledge of another individual suffering from a drug or alcohol overdose or other life threatening medical emergency, to aggressively obtain medical care without fear of prosecution for possession of 1) a controlled substance or marijuana (other than a trafficking offense), 2) alcohol by a minor, or 3) drug paraphernalia.

The Bill addresses an important public health concern. According to the Center for Disease Control (CDC), unintentional drug overdose is the second leading cause of accidental death in the United States, trailing only automobile accidents.¹ Likewise, the U.S. Surgeon General and the U.S. Department of Health and Human Services (USDHHS) have identified binge drinking among college students as a major public health issue.² The fear of prosecution is known to be a real obstacle to seeking medical care for someone suffering from a drug or alcohol

¹ Melonie Heron, Ph.D., Donna Hayert, Ph.D., et al. Center for Disease Control, National Vital Statistics Report, Deaths: Final Data for 2006, Vol 57 No. 4, April 17, 2009.

² (USDHHS, 2000). Data from several national surveys indicate that about four in five college students drink and that about half of college students who drink engage in heavy episodic consumption, or “binge” drinking. NIAAA, *Heavy Episodic Consumption of Alcohol*, 2005.

overdose.³ However, the consequences of not seeking medical care in these circumstances are often deadly. It is well recognized that most individuals who are in need of treatment for an overdose or other medical emergency are usually unable to actively seek that treatment due to the impact of the overdose or medical emergency. The Bill encourages those who may be in the company of the overdosing person or those who have knowledge of that person's overdose or medical emergency to call for emergency help (before it is too late), without fearing that their compassionate gesture will cost them arrest, incarceration, a criminal charge, or worse.

The Committee applauds Assembly Member Richard Gottfried and Senator John DeFrancisco for sponsoring this legislation. Regardless of the circumstances under which an individual experiences an overdose or other medical emergency due to consumption of a controlled substance or alcohol, all such individuals deserve the right to a life-saving intervention without community members fearing the potential negative consequences of that intervention. Such patients also deserve the right to a proper diagnosis and treatment of their underlying condition once in the hands of sound medical care. The Committee affirms the efforts of the legislature to create a social environment in which all New Yorkers can obtain the health care they need, particularly in situations in which death is an avoidable outcome.

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³ Pollini, R., McCall, L., Mehta, S., Cenentano, D., Vlahov, D., Starthee, S. (2006). Response to Overdose Among Injection Drug Users. *American Journal of Preventive Medicine*; 31(3), Tracy, M., Markham Piper, T., Ompad, D., Bucciarelli, A., Coffin, P., Vlahov, D., Galea, S. (2005) Circumstances Of Witnesses In Drug Overdoses In New York City: Implications For Intervention. *Drug and Alcohol Dependence* 79 181-190, Davidson, P.J., Ochoa, K.C., Hahn, J.A., Evans, J.L., and Moss, A.R. (2002). Witnessing Heroin-Related Overdoses: The Experiences Of Young Injectors In San Francisco. *Addiction*, 97, 1511-1516.