

**Senate Study Bill 1088 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON ZAUN)

**A BILL FOR**

1 An Act providing immunity from certain criminal offenses and  
2 prohibiting certain disciplinary sanctions for persons who  
3 report, seek, or require emergency assistance for alcohol or  
4 drug-related overdoses or protection from certain crimes,  
5 and modifying penalties.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.46, Code 2017, is amended by adding  
2 the following new subsections:

3 NEW SUBSECTION. 7. A person shall not be charged or  
4 prosecuted for a violation of this section if the person is  
5 immune from charge or prosecution pursuant to section 701.12.

6 Sec. 2. Section 123.47, Code 2017, is amended by adding the  
7 following new subsection:

8 NEW SUBSECTION. 9. A person shall not be charged or  
9 prosecuted for a violation of subsection 3 or 4 if the person  
10 is immune from charge or prosecution pursuant to section  
11 701.12.

12 Sec. 3. Section 123.47B, Code 2017, is amended by adding the  
13 following new subsection:

14 NEW SUBSECTION. 1A. If a person under the age of  
15 eighteen is discovered consuming or to be in possession of  
16 alcoholic liquor, wine, or beer, but the person is immune from  
17 prosecution under section 701.12, a peace officer shall make a  
18 reasonable effort to identify the person and notify a juvenile  
19 court officer of such person's consumption or possession.

20 Sec. 4. Section 124.401, Code 2017, is amended by adding the  
21 following new subsection:

22 NEW SUBSECTION. 6. A person shall not be charged or  
23 prosecuted for a violation of subsection 1 or 5 if the person  
24 is immune from charge or prosecution pursuant to section  
25 701.12.

26 Sec. 5. Section 124.407, Code 2017, is amended by adding the  
27 following new unnumbered paragraph:

28 NEW UNNUMBERED PARAGRAPH. A person shall not be charged or  
29 prosecuted for a violation of this section if the person is  
30 immune from charge or prosecution pursuant to section 701.12.

31 Sec. 6. Section 124.414, Code 2017, is amended by adding the  
32 following new subsection:

33 NEW SUBSECTION. 4. A person shall not be charged or  
34 prosecuted for a violation of this section if the person is  
35 immune from charge or prosecution pursuant to section 701.12.

1     Sec. 7. Section 262.9, Code 2017, is amended by adding the  
2 following new subsection:

3     NEW SUBSECTION. 39. Prohibit an institution of higher  
4 education under its control from imposing any of the following  
5 disciplinary sanctions against a student for possession or  
6 consumption of alcohol or a controlled substance or possession  
7 of drug paraphernalia if the student is immune from charge or  
8 prosecution pursuant to section 701.12:

- 9     a. Removal from a course.  
10    b. Enrollment restrictions in a course or program.  
11    c. Suspension or expulsion from the university.  
12    d. Eviction or exclusion from student housing.

13    Sec. 8. Section 321.216B, Code 2017, is amended to read as  
14 follows:

15    **321.216B Use of driver's license or nonoperator's**  
16 **identification card by underage person to obtain alcohol.**

17    1. A person who is under the age of twenty-one, who alters  
18 or displays or has in the person's possession a fictitious  
19 or fraudulently altered driver's license or nonoperator's  
20 identification card and who uses the license to violate or  
21 attempt to violate [section 123.47](#), commits a simple misdemeanor  
22 punishable as a scheduled violation under section 805.8A,  
23 subsection 4. The court shall forward a copy of the conviction  
24 to the department.

25    2. A person shall not be charged or prosecuted for a  
26 violation of this section if the person is immune from charge  
27 or prosecution pursuant to section 701.12.

28    Sec. 9. Section 321.284, Code 2017, is amended by adding the  
29 following new subsection:

30    NEW SUBSECTION. 3. A person shall not be charged or  
31 prosecuted for a violation of this section if the person is  
32 immune from charge or prosecution pursuant to section 701.12.

33    Sec. 10. Section 321.284A, Code 2017, is amended by adding  
34 the following new subsection:

35    NEW SUBSECTION. 6. A person shall not be charged or

1 prosecuted for a violation of this section if the person is  
2 immune from charge or prosecution pursuant to section 701.12.

3     Sec. 11. NEW SECTION.   **701.12 Persons seeking emergency**  
4 **assistance for overdose or crime victims — immunity.**

5     1. A person shall not be charged or prosecuted for the  
6 violation of any of the following offenses if the evidence  
7 for the charge was obtained as a result of the person in good  
8 faith seeking emergency assistance for the person or another  
9 person due to an alcohol or drug-related overdose or because  
10 the person or other person is a victim of a crime prohibited by  
11 chapter 708, 709, or 710A:

- 12     *a.* Section 123.46.
- 13     *b.* Section 123.47, subsection 3 or 4.
- 14     *c.* Section 124.401, subsection 1 or 5.
- 15     *d.* Section 124.407.
- 16     *e.* Section 124.414.
- 17     *f.* Section 321.216B.
- 18     *g.* Section 321.284.
- 19     *h.* Section 321.284A.

20     2. To be eligible for immunity under this section, the  
21 reporting person, or persons acting in concert, must do all of  
22 the following:

- 23     *a.* Be the first person to seek emergency assistance.
- 24     *b.* Provide the reporting person's name and contact  
25 information to medical or law enforcement personnel.
- 26     *c.* Remain on the scene until assistance arrives or is  
27 provided.
- 28     *d.* Cooperate with medical and law enforcement personnel.

29     3. The person for whom emergency assistance was sought as  
30 described in subsection 1 shall not be charged or prosecuted  
31 for an offense listed in subsection 1.

32                                   EXPLANATION

33                   The inclusion of this explanation does not constitute agreement with  
34                   the explanation's substance by the members of the general assembly.

35     This bill provides immunity from certain criminal offenses

1 and prohibits certain disciplinary sanctions for certain  
2 persons who seek or require emergency assistance for alcohol or  
3 drug-related overdoses or protection from certain crimes.

4 The bill creates new Code section 701.12, which provides  
5 that a person shall not be charged or prosecuted for public  
6 intoxication, possession of alcohol under the legal age,  
7 possession or use of a controlled substance, possession of  
8 drug paraphernalia, use of a driver's license by an underage  
9 person to obtain alcohol, or possession of an open container in  
10 a motor vehicle, if the person in good faith sought emergency  
11 assistance for the person or another person due to an alcohol  
12 or drug-related overdose or because the person or other  
13 person is a victim of a crime prohibited by Code chapter 708  
14 (assault), 709 (sexual abuse), or 710A (human trafficking).  
15 A person seeking emergency assistance is only eligible for  
16 immunity if the person, or persons acting in concert, is  
17 the first person to seek emergency assistance, provides the  
18 reporting person's name and contact information to medical  
19 or law enforcement personnel, remains on the scene until  
20 assistance arrives or is provided, and cooperates with medical  
21 and law enforcement personnel. The bill also provides immunity  
22 to the person for whom emergency assistance was sought.

23 Under Code section 232.52, a juvenile court may suspend  
24 or revoke the driver's license or operating privilege of a  
25 person under the age of 18, for a period of one year, who  
26 has violated Code section 123.46 or 123.47 or Code chapter  
27 124. Because the bill provides immunity to persons from those  
28 provisions, a person under the age of 18 who receives immunity  
29 from prosecution under the bill will not face the loss of such  
30 person's driver's license for one year.

31 The bill provides that if a person under the age of 18 is  
32 discovered consuming or to be in possession of alcohol but  
33 receives immunity from prosecution under Code section 701.12,  
34 a peace officer shall notify a juvenile court officer of  
35 such person's consumption or possession. Under Code section

1 123.47B(2), the juvenile court officer is required to notify  
2 the person's custodial parent, legal guardian, or custodian and  
3 the superintendent of authority in charge of the school the  
4 person attends of the consumption or possession.

5 The bill directs the board of regents to prohibit the regents  
6 universities from imposing certain disciplinary sanctions  
7 against a student for the possession or consumption of alcohol  
8 or a controlled substance or possession of drug paraphernalia  
9 if the student is immune from prosecution pursuant to new Code  
10 section 701.12. The prohibited disciplinary sanctions are the  
11 removal from a course, enrollment restrictions in a course  
12 or program, suspension or expulsion from the university, or  
13 eviction or exclusion from student housing.

14 The bill makes conforming changes.