

# SENATE BILL REPORT

## SB 5348

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As of January 18, 2007

**Title:** An act relating to reporting drug overdoses.

**Brief Description:** Limiting prosecution of persons reporting drug overdoses.

**Sponsors:** Senators Kline, Franklin, Kohl-Welles, Prentice, Fairley, Pridemore and McAuliffe.

**Brief History:**

**Committee Activity:** Judiciary: 1/10/07.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Dawn Noel (786-7472)

**Background:** In 2003, the death rate from drug use was 9.9 deaths per 100,000 Washington residents. This rate has increased from 1992, when it was 5.6 deaths per 100,000 residents. Concern exists that some people who witness drug overdoses may be reluctant to summon assistance because they fear being charged with a drug offense.

**Summary of Bill:** A person may not be prosecuted for a violation of the controlled substances act, or be required to forfeit ownership of certain property connected to the violation, if: the person is a witness to a drug overdose; the witness reasonably believes that overdose resulted in an imminent threat to the health or life of the victim; the person immediately reported the overdose to the proper authorities; and all evidence of the contemplated charge was gained as a result of the report. The act does not apply to prosecutions for controlled substances homicide or in cases when the witness sold the drugs to the victim.

**Appropriation:** None.

**Fiscal Note:** Requested on January 9, 2007.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill gives legal immunity in exchange for an immediate report to save a life. It involves a societal tradeoff. It does not apply to everybody, like someone who uses the overdose report as a defensive maneuver from arrest. It would also not apply in the situation where someone had a problem smoking too much marijuana; an imminent threat to health or life would not exist in that situation. The bill

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requires people to make a reasonable judgment call on whether an imminent threat exists. This bill would not affect civil forfeiture law.

OTHER: The policy behind this legislation is great because it encourages saving lives. However, the problem with the legislation is that a person must reasonably believe that an imminent threat exists, which can be a difficult determination to make. A lot of people are dying from overdoses; it is important to immediately get victims medical help, and to encourage witnesses to accompany overdose victims to the hospital so that health professionals can accurately assess the situation.

**Persons Testifying:** PRO: Senator Kline.

OTHER: John Sinclair, Washington Association of Criminal Defense Lawyers; Jennifer Shaw, ACLU.