

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 875 Statewide Taskforce on Opioid Drug Abuse  
**SPONSOR(S):** Criminal Justice Subcommittee, Sirois  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1658

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N, As CS	Frost	Hall
2) Health & Human Services Committee			
3) Judiciary Committee			

### SUMMARY ANALYSIS

Opioids are a class of drugs including illegal drugs such as heroin, synthetic opioids like fentanyl, and prescription pain relievers such as oxycodone, hydrocodone, codeine, and morphine. Proper use of a prescription opioid pain reliever is generally safe; however, in addition to relieving pain, opioid drugs produce euphoria, making them highly susceptible to misuse, dependence, addiction, overdose, and death.

Florida's drug overdose death rate increased by more than 46 percent between 2015 and 2016, and another 5.9 percent between 2016 and 2017. In 2016, nearly 2,800 deaths resulting from an opioid-related overdose occurred in Florida. In 2017, Florida's drug overdose death rate was the seventeenth highest in the country. According to the Centers for Disease Control and Prevention, two out of three drug overdose deaths involve an opioid drug.

When necessary and beneficial to the public, Florida law permits an advisory body, known as a committee or task force, to study a specific problem within the state and recommend a solution. When created by statute, a task force may exist up to three years, but must terminate when its assignment is complete.

CS/HB 875 establishes a statewide task force to research Florida's opioid drug abuse problem. The task force consists of 25 members, including:

- One member each from the Department of Education, Florida Department of Law Enforcement, Department of Children and Families, Agency for Healthcare Administration, Department of Corrections, Department of Juvenile Justice, and State Courts Administrator;
- One member appointed by the Speaker of the House;
- One member appointed by the President of the Senate;
- Three members from addiction and recovery associations;
- Two sheriffs, two police chiefs, two state attorneys, and two public defenders; and
- One representative each from the Florida Medical Association, Florida Pharmacy Association, and the insurance industry.

The Department of Legal Affairs must provide necessary staff to assist the task force in completing research to provide the Legislature with recommended strategies relating to the criminalization, education, treatment, and prevention of opioid use. The task force must hold its first organizational session by July 15, 2019, and must continue meeting at least four times per year.

The task force must submit interim reports to the President of the Senate and the Speaker of the House of Representatives by December 1, 2019 and January 15, 2021, and a final report by June 30, 2022.

The bill may have an indeterminate fiscal impact on state government.

The bill provides an effective date of upon becoming a law.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0875a.CRJ

**DATE:** 3/19/2019

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Opioids

Opioids are a class of drugs including illegal drugs such as heroin, synthetic opioids like fentanyl<sup>1</sup>, and prescription pain relievers such as oxycodone, hydrocodone, codeine, and morphine.<sup>2</sup> Proper use of a prescription opioid pain reliever is generally safe; however, in addition to relieving pain, opioid drugs produce euphoria, making them highly susceptible to misuse, dependence, addiction, overdose, and death.<sup>3</sup> An opioid overdose may be reversed by naloxone, commonly known as Narcan, which is an opioid antagonist drug that binds to opioid receptors in a person's brain, blocking and reversing the drug's effects.<sup>4</sup> Naloxone provides rapid relief to a person no longer breathing or experiencing slow breathing related to an opioid overdose. Naloxone must be injected or inhaled via nasal spray.

The term Neonatal Abstinence Syndrome (NAS) describes the signs and symptoms occurring in a newborn exposed to a drug such as heroin, codeine, oxycodone, or fentanyl while in a mother's womb.<sup>5</sup> A baby born with NAS is dependent on any drug ingested by his or her mother during pregnancy and displays symptoms of withdrawal upon birth.

##### *National Opioid Epidemic*

According to the Centers for Disease Control and Prevention (CDC), drug overdose deaths in the United States (U.S.) increase every year. Between 1999 and 2017, more than 700,000 people died from a drug overdose.<sup>6</sup> The initial rise in opioid-related drug overdose deaths occurred in the 1990's, involving prescription opioids, while the second notable increase began in 2010, when opioid deaths relating to heroin use increased dramatically.<sup>7</sup> The most recent significant rise in opioid deaths began in 2013 and relates directly to synthetic opioids, especially illegally manufactured fentanyl.<sup>8</sup> In 2017, 68 percent of the 70,200 drug overdose deaths in the U.S. involved an opioid drug, and on average, 130 Americans die every day from an opioid overdose.<sup>9</sup> Two out of three drug overdose deaths involve an opioid drug.<sup>10</sup>

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<sup>1</sup> Pharmaceutical fentanyl is a synthetic opioid pain reliever, approved for treating severe pain, typically advanced cancer pain. It is 50 to 100 times more potent than morphine, and is prescribed in the form of transdermal patches or lozenges. CENTERS FOR DISEASE CONTROL AND PREVENTION, *Opioid Overdose, Fentanyl*, <https://www.cdc.gov/drugoverdose/opioids/fentanyl.html> (last visited Mar. 14, 2019).

<sup>2</sup> NATIONAL INSTITUTE ON DRUG ABUSE, *Drugs of Abuse, Opioids*, <https://www.drugabuse.gov/drugs-abuse/opioids> (last visited Mar. 14, 2019).

<sup>3</sup> *Id.*

<sup>4</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Opioid Overdose Reversal with Naloxone (Narcan, Evxio)*, <https://www.drugabuse.gov/related-topics/opioid-overdose-reversal-naloxone-narcan-evxio> (last visited Mar. 14, 2019).

<sup>5</sup> FLORIDA HEALTH, *Neonatal Abstinence Syndrome*, <http://www.floridahealth.gov/diseases-and-conditions/neonatal-abstinence-syndrome/index.html> (last visited Mar. 14, 2019).

<sup>6</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Opioid Overdose, Understanding the Epidemic*, <https://www.cdc.gov/drugoverdose/epidemic/index.html> (last visited Mar. 14, 2019).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Overview of the Drug Overdose Epidemic: Behind the Numbers*, <https://www.cdc.gov/drugoverdose/data/index.html> (last visited Mar. 14, 2019).

## *Florida's Opioid Epidemic*

In 2016, nearly 2,800 deaths resulting from opioid-related overdose occurred in Florida, and more than 50 percent involved a synthetic opioid.<sup>11</sup> Florida's drug overdose death rate increased by more than 46 percent between 2015 and 2016, and another 5.9 percent between 2016 and 2017, making it one of 23 states identified by the CDC as having a statistically significant increase in its drug overdose death rate.<sup>12</sup> In 2017, Florida's drug overdose death rate was the seventeenth highest in the U.S., and increased 17 percent from 2016.

In 2015, healthcare providers in Florida billed Medicaid as the primary insurer for approximately \$2.1 billion in medical care and services relating to heroin and opioid overdose.<sup>13</sup> Additionally, over a six year period Medicaid paid \$842 million relating to NAS treatment costs. On average, Medicaid pays \$4.1 million per day for hospital-related medical expenses for drug overdose intervention and treatment.<sup>14</sup>

### ***Prior Attempts to Address the Opioid Problem***

Originally established within the Department of Health in 1999, the Statewide Drug Policy Advisory Council (DPAC) coordinates drug control efforts, provides public information regarding substance abuse and substance abuse services, and develops programs and funding for state agency drug control activity.<sup>15</sup> DPAC consists of nine state officials and seven members of the public appointed by the Governor. DPAC's statutory responsibilities include:

- Meeting at least quarterly;
- Conducting a comprehensive analysis of the state's substance abuse problem and making recommendations regarding state drug control strategy;
- Reviewing and recommending funding for substance abuse programs and services;
- Reviewing substance abuse programs and recommending measures needed to determine program outcomes;
- Reviewing drug control strategies and programs of other states and the Federal Government;
- Recommending applied research projects to utilize research capabilities within the state;
- Recommending changes in law to remove barriers to or enhance implementation of state drug control strategy;
- Making recommendations for the need for public information campaigns;
- Ensuring a coordinated, integrated, and multidisciplinary response to the substance abuse problem in the state;
- Assisting communities and families in sharing knowledge and experience with a substance abuse problem;
- Examining the extent to which state programs involving substance abuse treatment may include a meaningful work component;
- Recommending ways to expand and fund drug courts; and
- Submitting a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1 of each year.

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<sup>11</sup> NATIONAL INSTITUTE ON DRUG ABUSE, *Florida Opioid Summary*, <https://www.drugabuse.gov/drugs-abuse/opioids/opioid-summaries-by-state/florida-opioid-summary> (last visited Mar. 14, 2019).

<sup>12</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, *Opioid Overdose, Drug Overdose Deaths*, <https://www.cdc.gov/drugoverdose/data/statedeaths.html> (last visited Mar. 14, 2019).

<sup>13</sup> National Association of Counties, *2018 Conference, The Opioid Crisis: Updates on Opioid-Related Litigation*, (Mar. 3-7, 2018), [http://www.naco.org/sites/default/files/event\\_attachments/NACo%20Leg%202018%20-%20Opioids%20Workshop.pdf](http://www.naco.org/sites/default/files/event_attachments/NACo%20Leg%202018%20-%20Opioids%20Workshop.pdf) (last visited Mar. 14, 2019).

<sup>14</sup> *Id.*

<sup>15</sup> FLORIDA HEALTH, *Statewide Drug Policy Advisory Council (DPAC)*, <http://www.floridahealth.gov/provider-and-partner-resources/dpac/index.html> (last visited Mar. 14, 2019); S. 397.333, F.S.

In 2001, the Legislature established the Violent Crime and Drug Control Council (Council)<sup>16</sup> within the Florida Department of Law Enforcement (FDLE) to provide supplemental funding to local and state law enforcement working violent crime, major drug and money laundering investigations, and victim and witness protection and relocation. The Council consists of 14 members: eight standard members by virtue of employment and six members appointed by the Governor. The Council meets twice per year to review funding requests and discuss crime issues impacting the state.

In 2009, the Legislature created Florida's Prescription Drug Monitoring Program (PDMP), known as E-FORCSE,<sup>17</sup> to encourage safe prescribing of controlled substances and reduce drug abuse and illegal diversion<sup>18</sup> within the state by creating a statewide database of controlled substance prescriptions. E-FORCSE also provides mandatory registration and regulation of pain management clinics and physician standards of care in dealing with a patient's pain management.

In May 2017, Governor Rick Scott issued an Executive Order declaring Florida's opioid problem a public health emergency, and immediately dispersing funds to provide prevention, treatment, and recovery support services through the state.<sup>19</sup> Florida's Surgeon General simultaneously directed pharmacies throughout the state to issue a standing order for and dispense naloxone to emergency response personnel. The Legislature enacted s. 401.253, F.S., in 2017, requiring emergency medical personnel to report drug overdose incidents to the Department of Health.

In 2018, the Legislature amended the state's PDMP by requiring a practitioner with a Drug Enforcement Administration<sup>20</sup> license to access the database prior to prescribing any controlled substance to determine if a patient is prescribed any controlled substance by another practitioner. The database contains over 100,000 registered practitioners, and more than 1,300 law enforcement officials may access it to investigate a criminal act relating to controlled substance abuse.<sup>21</sup> As of January 1, 2019, the E-FORCSE database contains over 300 million controlled substance patient records.<sup>22</sup>

Despite these efforts, the Attorney General's office reports Florida is currently losing 17 people per day to opioid-related deaths, which is an increase from 14 per day in 2018.<sup>23</sup>

### Task Force

When necessary and beneficial to the public,<sup>24</sup> Florida law permits an advisory body, known as a committee or task force, to study a specific problem within the state and recommend a solution. When created by statute, a task force may exist up to three years, but must terminate when its assignment is complete.<sup>25</sup> Unless expressly provided statutorily, task force members serve without additional compensation or honorarium, and receive only per diem and reimbursement for travel expenses.

While many committees and programs currently operating in Florida address drug abuse, use, prevention, and control, no statewide program focuses solely on opioids. However, many local prescription drug and opioid task forces exist throughout the state, including the following counties:

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<sup>16</sup> S. 943.031, F.S.

<sup>17</sup> S. 893.055, F.S.

<sup>18</sup> Prescription drug diversion is defined as the unlawful channeling of regulated pharmaceuticals from legal sources to the illicit marketplace. This includes transferring drugs to people they were not prescribed for. Danielle Wood, *Drug Diversion*, Australian Prescriber, (Oct. 1, 2015), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4657309/> (last visited Mar. 14, 2019).

<sup>19</sup> Office of the Governor, *Executive Order Number 17-146 (Opioid Epidemic)*, <https://www.flgov.com/wp-content/uploads/2017/05/17146.pdf> (last visited Mar. 14, 2019).

<sup>20</sup> The United States Drug Enforcement Administration requires a physician to be licensed in order to prescribe controlled substances, such as opioids.

<sup>21</sup> THE FLORIDA PDMP FOUNDATION, INC., *Florida Legislature Establishes Foundation to Fund State PDMP Database*, <https://www.flpdmpfoundation.com/> (last visited Mar. 14, 2019).

<sup>22</sup> *Id.*

<sup>23</sup> Capitol News Service, *Florida attorney general convening opioid task force*, (Jan. 31, 2019), <https://www.wctv.tv/content/news/Florida-attorney-general-convening-opioid-task-force-505127901.html> (last visited Mar. 14, 2019).

<sup>24</sup> S. 20.052(1), F.S.

<sup>25</sup> S. 20.03, F.S.

Alachua; Broward; Bradford; Duval; Franklin; Hernando; Hillsborough; Lake; Manatee; Marion; Miami-Dade; Nassau; Orange; Palm Beach; St. Johns; Volusia; Walton; Washington; and the City of Coral Springs.<sup>26</sup> Results from Palm Beach County's opioid programs illustrate success at the local level in efforts to reduce opioid-related deaths.<sup>27</sup>

## Effect of Proposed Changes

CS/HB 875 establishes a statewide task force to research Florida's opioid drug abuse problem. The task force consists of 25 members, including:

- One representative, to be appointed by the:
  - Attorney General (AG), as chair;
  - State Surgeon General, as vice chair;
  - Commissioner of Education;
  - Commissioner of FDLE;
  - Secretary of Children and Families;
  - Secretary of Health Care Administration;
  - Secretary of Corrections;
  - Secretary of Juvenile Justice;
  - President of the Senate;
  - Speaker of the House of Representatives; and
  - State Courts Administrator.
- Two representatives, to be appointed by the AG from the:
  - Sheriffs;
  - Police chiefs;
  - State attorneys; and
  - Public defenders.
- Three representatives from different areas of the state, appointed by the AG, from addiction and recovery associations; and
- One representative each from the:
  - Florida Medical Association;
  - Florida Pharmacy Association; and
  - Insurance industry.

A member may receive statutorily authorized reimbursement for per diem and travel expenses associated with participation in the task force, but is not otherwise compensated.

The Department of Legal Affairs must provide necessary staff to assist the task force in completing research to provide the Legislature recommended strategies relating to the criminalization, education, treatment, and prevention of opioid use. The task force must hold its first organizational session by July 15, 2019, and must continue to meet at least four times per year to:

- Collect and organize data concerning:
  - The nature and extent of opioid abuse in the state, including the:
    - Overdose death rate;
    - NAS statistics;
    - Florida Youth Substance Abuse Survey;
    - Automation of Reports Consolidated Order System data; and
    - DEA seizure data for opioids, including fentanyl and synthetic fentanyl.
  - Current state and local costs associated with opioid abuse and misuse.

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<sup>26</sup> Florida Department of Children and Families, *Florida's State Targeted Response to the Opioid Crisis Grant*, (Aug. 31, 2017), <http://www.dcf.state.fl.us/programs/samh/substanceabuse/docs/opioid/Needs%20Assessment.pdf> (last visited Mar. 14, 2019).

<sup>27</sup> Lois K. Solomon, *Opioid death rate plunges 41 percent in Florida county at center of epidemic*, (Jan. 17, 2019), <https://www.sun-sentinel.com/local/palm-beach/fl-ne-palm-beach-opioid-deaths-20190117-story.html> (last visited Mar. 14, 2019).

- Identify:
  - Available state, federal, and local programs providing services to combat opioid drug abuse;
  - Any need for additional regulatory activity, including scheduling or emergency scheduling of synthetic opioid derivatives, including fentanyl.
- Identify and evaluate:
  - Best practices for treating opioid drug abuse;
  - Sources of opioids being abused and misused, and the causes of opioid drug abuse;
  - Ways to reduce demand for opioids, including non-opioid pain management;
  - Ways to reduce the supply of opioids to abusers;
  - The need for training resources by law enforcement to deal with opioid users;
  - Best practices for law enforcement encountering a person suffering from opioid addiction and for post-arrest treatment;
  - Alternative criminal sanctions for a person suffering from opioid addiction;
  - Programs, protocols, and education for:
    - Inmates suffering from opioid addiction;
    - Minors suffering from opioid addiction; and
    - Children, young adults, and adults regarding the dangers of opioid abuse; and
  - Methods to increase public awareness of opioid abuse and misuse.
- Develop a list of projects and priorities for funding by the Legislature or other sources, including proceeds from judgments or settlements with opioid manufacturers, distributors, or any other source related to opioid drug abuse.

The task force must submit its first interim report detailing its recommendations to the President of the Senate and the Speaker of the House of Representatives by December 1, 2019, a second interim report by January 15, 2021, and a final report by June 30, 2022. The task force is repealed when it submits its final report, or on June 30, 2022.

The bill provides an effective date of upon becoming a law.

#### B. SECTION DIRECTORY:

**Section 1:** Creates an unnumbered section of law establishing a Statewide Task Force on Opioid Drug Abuse.

**Section 2:** Provides an effective date of upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill may have an indeterminate fiscal impact on state government, as task force members may receive statutorily authorized reimbursement for per diem and travel expenses associated with participation in the task force.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect municipal or county governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

Not Applicable.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 19, 2019, the Criminal Justice Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Revised the dates by which the task force must submit a report of its recommendations to December 1, 2019 for the first report; January 15, 2021 for the second report; and June 30, 2022, for the final report; and
- Revised the repeal date of the task force to June 30, 2022.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.