

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		Gilani	Calamas
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 2017, heroin caused 944 deaths, fentanyl and fentanyl analogs caused 3,331 deaths, oxycodone caused 610 deaths, and hydrocodone caused 226 deaths, ranking Florida as the state with the 17th highest drug overdose death rate in the U.S.

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 President of the Senate;
- One member appointed by the Speaker of the House;
- 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 has an indeterminate negative fiscal impact on state government.

The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Opioid Abuse

Opioids are a class of drugs including illegal drugs such as heroin, synthetic opioids like fentanyl¹, and prescription pain relievers such as oxycodone, hydrocodone, codeine, and morphine.² 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.³

Opioids are commonly abused, with an estimated 15 million people worldwide suffering from opioid dependence.⁴ Opioids can create a euphoric feeling because they affect the regions of the brain involved with pleasure and reward, which can lead to abuse.⁵ Continued use of these drugs can lead to the development of tolerance and psychological and physical dependence.⁶ This dependence is characterized by a strong desire to take opioids, impaired control over opioid use, persistent opioid use despite harmful consequences, a higher priority given to opioid use than to other activities and obligations, and a physical withdrawal reaction when opioids are discontinued.⁷ Nearly 80 percent of people who use heroin first misused prescription opioids.⁸

An overabundance of opioids in the body can lead to a fatal overdose. In addition to their presence in major pain pathways, opioid receptors are also located in the respiratory control centers of the brain.⁹ Opioids disrupt the transmission of signals for respiration in the identical manner that they disrupt the transmission of pain signals. This leads to a reduction, and potentially cessation, of an individual's respiration. Oxygen starvation will eventually stop vital organs like the heart, then the brain, and can lead to unconsciousness, coma, and possibly death.¹⁰ Within three to five minutes without oxygen, brain damage starts to occur, soon followed by death.¹¹ However, this does not occur instantaneously as people will commonly stop breathing slowly, minutes to hours after the drug or drugs were used.¹² An opioid overdose can be identified by a combination of three signs and symptoms referred to as the "opioid overdose triad": pinpoint pupils, unconsciousness, and respiratory depression.¹³

¹ 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).

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

³ *Id.*

⁴ WORLD HEALTH ORGANIZATION, *Information Sheet on Opioid Overdose*, World Health Organization (Aug. 2018), available at: http://www.who.int/substance_abuse/information-sheet/en/ (last visited March 2, 2019).

⁵ NATIONAL INSTITUTE ON HEALTH, NATIONAL INSTITUTE ON DRUG ABUSE, *Which classes of Prescription Drugs are Commonly Misused?* (rev. Aug. 2016), available at: <https://www.drugabuse.gov/publications/research-reports/misuse-prescription-drugs/which-classes-prescription-drugs-are-commonly-misused> (last visited March 2, 2019).

⁶ Gjermund Henriksen, Frode Willoch; *Brain Imaging of Opioid Receptors in the Central Nervous System*, 131 BRAIN 1171-1196 (2007), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2367693/> (last visited March 2, 2019).

⁷ *Supra* note 4.

⁸ NATIONAL INSTITUTE ON DRUG ABUSE, *Prescription Opioids and Heroin*, (rev. Jan. 2018), available at: <https://www.drugabuse.gov/publications/research-reports/relationship-between-prescription-drug-heroin-abuse/prescription-opioid-use-risk-factor-heroin-use> (last visited March 2, 2019).

⁹ K.T.S. Pattinson, *Opioids and the Control of Respiration*, BRITISH JOURNAL OF ANAESTHESIA, Volume 100, Issue 6, pp. 747-758, available at: <http://bjaoxfordjournals.org/content/100/6/747.full> (last visited March 2, 2019).

¹⁰ HARM REDUCTION COALITION, *Guide to Developing and Managing Overdose Prevention and Take-Home Naloxone Projects* (Fall 2012), <http://harmreduction.org/wp-content/uploads/2012/11/od-manual-final-links.pdf> (last visited March 2, 2019).

¹¹ *Id.* at 9.

¹² *Id.* at 9.

¹³ *Supra* note 4.

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.¹⁴ 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.

National Opioid Crisis

The drug overdose death rate involving opioids increases each year, accounting for more than 700,000 deaths since 1999 and, on average, 130 deaths per day.¹⁵ The drug overdose death rate has increased by 200 percent since 2000 and has now become the leading cause of accidental deaths in the United States.¹⁶ 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.¹⁷ The most recent significant rise in opioid deaths began in 2013 and relates directly to synthetic opioids, especially illegally manufactured fentanyl.¹⁸

Opioid-involved overdoses accounted for two-thirds of drug overdose deaths from 2015 to 2016.¹⁹ Nationwide, in 2017, there were 47,600 deaths that involved an opioid (licit or illicit), and 17,029 people died from overdoses involving prescription opioids.²⁰ The most common drugs involved in prescription opioid overdose deaths were methadone, oxycodone, and hydrocodone.²¹

Florida's Opioid Crisis

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 Centers for Disease Control and Prevention as having a statistically significant increase in its drug overdose death rate.²² In 2016, nearly 2,800 deaths resulting from opioid-related overdose occurred in Florida, a rate of 14.4 deaths per 100,000 people, with more than 50 percent involving a synthetic opioid.²³ In 2017, in Florida, heroin caused 944 deaths, fentanyl and fentanyl analogs caused 3,331 deaths, oxycodone caused 610 deaths, and hydrocodone caused 226 deaths.²⁴ In 2017, Florida's drug overdose death rate was the 17th highest in the U.S.²⁵

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.²⁶ Additionally, over a six year period, Medicaid paid \$842 million relating to NAS treatment costs. On average, Medicaid pays

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

¹⁵ CENTERS FOR DISEASE CONTROL AND PREVENTION, *Opioid Overdose, Understanding the Epidemic*, <https://www.cdc.gov/drugoverdose/epidemic/index.html> (last visited Mar. 14, 2019).

¹⁶ CENTERS FOR DISEASE CONTROL AND PREVENTION, *Increases in Drug and Opioid Overdose Deaths – United States, 2000-2014*, Morbidity and Mortality Weekly Report (MMWR) 64(50); 1378-82, available at: http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6450a3.htm?s_cid=mm6450a3_w (last visited March 12, 2018).

¹⁷ *Supra* note 15.

¹⁸ *Id.*

¹⁹ CENTERS FOR DISEASE CONTROL AND PREVENTION, *Drug and Opioid-Involved Overdose Deaths – United States, 2013-2017*, Morbidity and Mortality Weekly Report (MMWR) 64(50); 1378-82, available at: <https://www.cdc.gov/mmwr/volumes/67/wr/mm675152e1.htm> (last visited Mar. 30, 2019).

²⁰ *Id.*

²¹ CENTERS FOR DISEASE CONTROL AND PREVENTION, *Prescription Opioid Overdose Data*, (Dec. 19, 2018), available at: <https://www.cdc.gov/drugoverdose/data/overdose.html> (last visited March 2, 2019).

²² CENTERS FOR DISEASE CONTROL AND PREVENTION, *Opioid Overdose, Drug Overdose Deaths*, <https://www.cdc.gov/drugoverdose/data/statedeaths.html> (last visited Mar. 14, 2019).

²³ 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).

²⁴ FLORIDA DEPARTMENT OF LAW ENFORCEMENT, MEDICAL EXAMINERS COMMISSION, *Drugs Identified in Deceased Persons by Florida Medical Examiners 2017 Annual Report*, (Nov. 2018), available at: <http://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2017-Annual-Drug-Report.aspx> (last visited March 30, 2019).

²⁵ *Supra* note 22.

²⁶ NATIONAL ASSOCIATION OF COUNTIES, *2018 Legislative 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 (last visited Mar. 14, 2019).

\$4.1 million per day for hospital-related medical expenses for drug overdose intervention and treatment.²⁷

Florida's Prior Attempts to Address Opioid Abuse

Statewide Drug Advisory Council

The Statewide Drug Policy Advisory Council (DPAC), established within the Department of Health in 1999, 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.²⁸ 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.

Violent Crime and Drug Control Council

In 2001, the Legislature established the Violent Crime and Drug Control Council (Council) 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.²⁹ 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.³⁰

Prescription Drug Monitoring Program

In 2009, the Legislature created Florida's Prescription Drug Monitoring Program (PDMP),³¹ a state-run electronic database that tracks the prescribing and dispensing of certain of controlled substances to

²⁷ *Id.*

²⁸ FLORIDA DEPARTMENT OF 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.

²⁹ S. 943.031, F.S.

³⁰ *Id.*

³¹ Ch. 2009-197, LAWS OF FLA.; s. 893.055, F.S.

patients. The PDMP is designed to encourage safe prescribing of controlled substances and reduce drug abuse and illegal diversion³² within the state.

When dispensing a controlled substance listed in the Florida Comprehensive Drug Abuse Prevention and Control Act or federal law, dispensers must report specified information to the PDMP database.³³ 2018 amendments to the PDMP law require each prescriber or dispenser or his or her designee to consult the PDMP to review a patient's controlled substance dispensing history prior to prescribing or dispensing a controlled substance for patients age 16 and older.³⁴

Over 100,000 practitioners are registered to consult the PDMP and more than 1,300 law enforcement officials may access it to investigate a criminal act relating to controlled substance abuse.³⁵ The PDMP is consulted or queried 4.5 million times a month. As of January 1, 2019, the PDMP contains over 300 million controlled substance patient records.³⁶

Declared Public Health Emergency

In 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.³⁷ 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.

Despite these efforts, the drug overdose death rate continues to rise each year in Florida.³⁸

Task Force

When necessary and beneficial to the public,³⁹ 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.⁴⁰ 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: 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.⁴¹ Results from Palm Beach County's opioid programs illustrate success at the local level in efforts to reduce opioid-related deaths.⁴²

³² 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).

³³ Section 893.055(3), F.S.; For a list of controlled substances, see s. 893.03, F.S., and s. U.S.C. s. 812.

³⁴ Section 893.055(8), F.S.

³⁵ THE FLORIDA PDMP FOUNDATION, INC., *Florida Legislature Establishes Foundation to Fund State PDMP Database*, <https://www.flpdmpfoundation.com/> (last visited Mar. 14, 2019).

³⁶ *Id.*

³⁷ Office of the Governor, *Executive Order Number 17-146 (Opioid Epidemic)*, May 3, 2017, available at: <https://www.flgov.com/wp-content/uploads/2017/05/17146.pdf> (last visited Mar. 14, 2019).

³⁸ *Supra* notes 22, 23, and 24.

³⁹ S. 20.052(1), F.S.

⁴⁰ S. 20.03, F.S.

⁴¹ 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).

⁴² Lois K. Solomon, *Opioid Death Rate Plunges 41 Percent in Florida County at Center of Epidemic*, SUNSENTINEL (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).

Effect of Proposed Changes

CS/HB 875 establishes a statewide task force within the Department of Legal Affairs to examine and analyze Florida's opioid drug abuse problem. The task force consists of 25 members.

- Eleven members must consist of the following officials or their designees:
 - Attorney General (AG), to serve as chair.
 - State Surgeon General, to serve 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.
 - State Courts Administrator.
- Eleven members must consist of the following, appointed by the AG:
 - Two sheriffs.
 - Two police chiefs.
 - Two state attorneys.
 - Two public defenders.
 - Three representatives from addiction and recovery associations from different areas of the state.
- Each of the following shall appoint a member:
 - Florida Medical Association.
 - Florida Pharmacy Association.
 - 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, within the Attorney General's Office, 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.
- 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 has an indeterminate negative 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:

The bill requires one member of the task force to be a representative from the insurance industry but does not state who appoints such member.

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.