

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: CS/SB 704

INTRODUCER: Fiscal Policy Committee and Senator Boyd

SUBJECT: Substance Abuse Prevention

DATE: April 21, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	<b>Favorable</b>
2.	<u>Sneed</u>	<u>Money</u>	<u>AHS</u>	<b>Favorable</b>
3.	<u>Looke</u>	<u>Yeatman</u>	<u>FP</u>	<b>Fav/CS</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 704 creates the Statewide Council on Opioid Abatement (Council) within the Department of Children and Families (DCF) for the purpose of enhancing the development and coordination of state and local efforts to abate the opioid epidemic and to support the victims of the opioid crisis and their families.

The bill amends two definitions in s. 381.887, F.S., to clarify that caregivers need not to have recurring contact with persons at risk of an opioid overdose to meet the definition and to include health care practitioners who dispense drugs in the definition of “authorized health care practitioner.” The bill allows pharmacists to prescribe as well as dispense emergency opioid antagonists within the constraints of that section of statute. Additionally, the bill adds emergency opioid antagonists that are delivered through a prefilled injection device delivery system to the types of opioid antagonists that may be prescribed, dispensed, and administered under the section.

The bill will have an indeterminate, yet insignificant negative fiscal impact on state government. See Section V. of this analysis.

The bill is effective upon becoming law.

## II. Present Situation:

### History of the Opioid Crisis in Florida

According to the National Institute on Drug Abuse:<sup>1</sup>

- “In the late 1990s, pharmaceutical companies reassured the medical community that patients would not become addicted to prescription opioid pain relievers, and health care providers began to prescribe them at greater rates”; and
- “This subsequently led to widespread diversion and misuse of these medications before it became clear that these medications could indeed be highly addictive.”

Between the early 2000s and the early 2010s, Florida was infamous as the “pill mill capital” of the nation. At the peak of the pill mill crisis, doctors in Florida bought 89 percent of all the oxycodone sold in the country.<sup>2</sup>

Between 2009 and 2011, the Legislature enacted a series of reforms to combat prescription drug abuse. These reforms included strict regulation of pain management clinics; creating the Prescription Drug Monitoring Program (PDMP); and stricter regulation on selling, distributing, and dispensing controlled substances.<sup>3</sup> “In 2016, the opioid prescription rate was 75 prescriptions for every 100 persons in Florida. This rate was down from a high of 83 prescriptions for every 100 persons.”<sup>4</sup>

As reported at the time by the Florida Attorney General’s Opioid Working Group:

Drug overdose is now the leading cause of non-injury related deaths in the United States. Since 2000, drug overdose death rates increased by 137 percent, including a 200 percent increase in the rate of overdose deaths involving opioids. In 2015, over 52,000 deaths in the U.S. were attributed to drug poisoning, and over 33,000 (63 percent) involved an opioid. In 2015, 3,535 deaths occurred in Florida where at least one drug was identified as the cause of death. More specifically, 2,535 deaths were caused by at least one opioid in 2015. Stated differently, seven lives per day were lost to opioids in Florida in 2015. Overall, the state had a rate of opioid-caused deaths of 13 per 100,000. The three counties with the highest opioid death rate were Manatee County (37 per 100,000), Dixie County (30 per 100,000), and Palm Beach County (22 per 100,000).<sup>5</sup>

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<sup>1</sup> Center on Positive Behavioral Interventions and Supports, *Opioid Crisis and Substance Misuse*, available at: <https://www.pbis.org/topics/opioid-crisis-and-substance-misuse> (last visited March 17, 2023).

<sup>2</sup> Lizette Alvarez, *Florida Shutting ‘Pill Mill’ Clinics*, *The New York Times* (Aug. 31, 2011), available at <http://www.nytimes.com/2011/09/01/us/01drugs.html> (last visited March 17, 2023).

<sup>3</sup> See Chapters 2009-198, 2010-211, and 2011-141, Laws of Fla.

<sup>4</sup> Attorney General’s Opioid Working Group, *Florida’s Opioid Epidemic: Recommendations and Best Practices*, 7 (Mar. 1, 2019), available at [https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/\\$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf](https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf) (last visited March 17, 2023).

<sup>5</sup> *Id.*

Early in 2017, the federal Centers for Disease Control and Prevention (CDC) declared the opioid crisis an epidemic.<sup>6</sup> Shortly thereafter, on May 3, 2017, Governor Rick Scott signed Executive Order 17-146, declaring the opioid epidemic a public health emergency in Florida.<sup>7</sup>

### ***House Bill 21 (2018)***

In 2018, the Florida Legislature passed CS/CS/HB 21 (Chapter 2018-13, Laws of Florida) to combat the opioid crisis. CS/CS/HB 21:

- Required additional training for practitioners on the safe and effective prescribing of controlled substances;
- Restricted the duration of prescriptions for Schedule II opioid medications to three days or up to seven days if medically necessary;
- Reworked the PDMP statute to require that prescribing practitioners check the PDMP prior to prescribing a controlled substance and to allow the integration of PDMP data with electronic health records and the sharing of PDMP data between Florida and other states; and
- Provided for additional funding for treatment and other issues related to opioid abuse.

### ***Status of the Opioid Crisis after HB 21***

There is evidence that the passage of HB 21 reduced opioid use in Florida. For example, one study that reviewed pharmacy prescriptions claims for a health plan serving more than 45,000 Floridians found that, on average, the number of enrollees per month that began opioid use between April of 2019 and August of 2019 dropped from 5.5 per 1,000 patients to 4.6 per 1,000 patients.<sup>8</sup>

However, with the onset of the COVID-19 pandemic, the incidence of opioid use disorder and resulting overdose deaths has once again risen. A report from Project Opioid details provisional data from the Department of Health (DOH) showing that deaths from drug overdoses have increased by 43 percent between 2019 and 2020, from 56 deaths per 100,000 in 2019 to 94 deaths per 100,000 in 2020. Additionally, fentanyl, an extremely potent opioid drug, is the leading cause of overdose deaths in Florida, and the incidence of fentanyl overdose deaths increased by 38 percent, from 2,348 in 2019 to 3,244 in 2020.<sup>9</sup> From the start of 2020 through the end of 2021, non-fatal opioid related emergency room visits and hospitalizations have increased from 4,992 to 5,913 and 1,940 to 2,130, respectively.<sup>10</sup> Fatal opioid related overdoses during that time period have also trended upward with 6,089 occurring in 2020 and 6,442 occurring in 2021.<sup>11</sup>

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<sup>6</sup> See Exec. Order No. 17-146, available at <https://www.flgov.com/wp-content/uploads/2017/05/17146.pdf>. (last visited March 17, 2023).

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

<sup>8</sup> Juan M. Hincapie-Castillo, et al., Changes in Opioid Use After Florida's Restriction Law for Acute Pain Prescriptions, JAMA Netw Open. 2020 Feb; 3(2): e200234, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7049083/>. (last visited March 17, 2023).

<sup>9</sup> Project Opioid, A Pandemic Fueling an Epidemic in Florida in 2020, available at [https://projectopioid.org/wp-content/uploads/2020/12/PO-2020-Data-Study-Final\\_New-Section.pdf](https://projectopioid.org/wp-content/uploads/2020/12/PO-2020-Data-Study-Final_New-Section.pdf) (last visited March 17, 2023).

<sup>10</sup> Q1 of 2020 compared to Q4 of 2021, Florida Health Charts, Substance Abuse Dashboard, available at <https://www.flhealthcharts.gov/ChartsDashboards/rdPage.aspx?rdReport=SubstanceUse.Overdose>. (last visited March 17, 2023)

<sup>11</sup> *Id.*

## Multistate Opioid Lawsuit and Settlement

In 2018, Attorney General Pam Bondi filed suit against multiple opioid manufacturers and distributors. The suit was later expanded to include the pharmacies CVS and Walgreens.<sup>12</sup> The complaint alleged that the defendants caused the opioid crisis by, among other things:

- Engaging in a campaign of misrepresentations and omissions about opioid use designed to increase opioid prescriptions and opioid use, despite the risks.
- Funding ostensibly neutral and independent “front” organizations to publish information touting the benefits of opioids for chronic pain while omitting the information about the risks of opioid treatment.
- Paying ostensibly neutral medical experts called “key opinion leaders” who were really manufacturer mouthpieces to publish articles promoting the use of opioids to treat pain while omitting information regarding the risks.<sup>13</sup>

In 2021, McKesson, Cardinal Health, and AmerisourceBergen, the nation’s three largest pharmaceutical distributors, as well as manufacturer Janssen Pharmaceuticals, Inc., agreed to a national settlement in which the distributors agreed to pay \$21 billion over 18 years and Janssen agreed to pay \$5 billion over nine years.<sup>14</sup> Of the \$26 billion available, approximately \$22.7 billion is earmarked for use by states that participated in the lawsuit, including Florida.<sup>15</sup> In addition, Florida has negotiated individual settlements with multiple other companies including:

- A \$65 million settlement with Endo Health Solutions;
- A \$440 million settlement with CVS Pharmacy, Inc.;
- A \$177,114,999 settlement with Teva Pharmaceuticals Industries, Ltd.;
- A \$122 million settlement with Allergan Finance, LLC.;
- A \$620 million settlement with Walgreens Boots Alliance, Inc. and Walgreens Co.; and
- A \$215 million settlement with Walmart.<sup>16</sup>

These settlements will pay out over a period of time ranging from 10 years to 18 years. The monies from the settlements in general must be used on opioid abatement, including prevention efforts, treatment or recovery services,<sup>17</sup> and to pay fees and costs incurred by the state, cities, and counties. Additionally, Teva Pharmaceuticals has agreed to provide the state with \$84 million worth of Naloxone Hydrochloride, which is an opioid overdose reversal medication.<sup>18</sup>

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<sup>12</sup> See *Florida Sues Walgreens, CVS for Alleged Role in Opioid Crisis*, (November 19, 2018) available at <https://www.npr.org/2018/11/19/669146432/florida-sues-walgreens-cvs-for-alleged-role-in-opioid-crisis> (last visited on March 17, 2023).

<sup>13</sup> See [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AYSNE/\\$file/Complaint+summary.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AYSNE/$file/Complaint+summary.pdf), (last visited on March 17, 2023).

<sup>14</sup> Executive Summary of National Opioid Settlements, Feb. 3, 2023, available at <https://nationalopioidsettlement.com/executive-summary/#:~:text=In%20all%2C%20the%20Distributors%20will,additional%20manufacturers%E2%80%94Allergan%20and%20Teva.>, (last visited March 17, 2023).

<sup>15</sup> Opioid Settlements: Who’s in?, Florida DLA, available at <https://myfloridalegal.com/opioidsettlement>, (last visited March 17, 2023).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* A portion of these funds will go to the state while another portion will go directly to the cities and counties.

<sup>18</sup> *Id.*

As part of the settlement agreement, Florida agreed to establish an “Opioid Abatement Taskforce or Council.” The agreement lays out how the Council must be structured and the tasks the Council must perform. For a comparison of what is required of the Council in the settlement agreement with the language from CS/SB 704, see the chart below:

Florida Opioid Allocation and Statewide Response Agreement	CS/ SB 704 Council Provisions
Create an “Opioid Abatement” Taskforce or Council.	The Statewide Council on Opioid Abatement, an advisory council as defined in s. 20.03, [F.S.,] is created within the department for the purpose of enhancing the development and coordination of state and local efforts to abate the opioid epidemic and to support the victims and families of the crisis.
Council must advise the Governor, Legislature, DCF, and Local Governments on the priorities that should be addressed by the expenditure of Opioid Funds.	The council shall review data from local, state, and national agencies, both on a regional and a statewide basis, to advise state and local governments on the status, severity, and stage of the opioid epidemic.
	The council must advise the state and local governments on resolving or abating the opioid epidemic.
	The council shall work with and provide and receive information from the Statewide Drug Policy Advisory Council and make sure that its recommendations and actions are consistent with the recommendations of that council to the extent possible.
Council must review how monies have been spent and the results that have been achieved with Opioid Funds.	<p>The council...must review how settlement monies recovered from the opioid litigation brought by state and political subdivisions have been spent, and the results that have been achieved from such expenditures.</p> <p>The council shall review data from local governments, other states, and national agencies regarding how moneys are being spent to abate the opioid epidemic, the success of such programs, and the appropriate metrics needed to assess the epidemic and progress in abating it.</p>
<p>Prior to July 1<sup>st</sup> of each year, the State and each of the Local Governments shall provide information to the DCF about how they intend to expend Opioid Funds in the upcoming fiscal year.</p> <p>State and local governments shall report expenditures to DCF no later than Aug. 31<sup>st</sup> for the previous fiscal year.</p>	<p>By June 30 of each year, each county, municipality, managing entity, or state agency that receives settlement funds from an opioid settlement shall provide information to the council related to how it intends to use settlement funds and how it intends to collect data regarding its use of funds.</p> <p>By August 31 of each year, each county, municipality, managing entity, or state agency that receives settlement funds from an opioid settlement must provide information to the council related to its expenditure of settlement funds and the results obtained from those expenditures.</p>

Florida Opioid Allocation and Statewide Response Agreement	CS/ SB 704 Council Provisions
<p>Council will set other data sets that need to be reported to DCF to demonstrate the effectiveness of expenditures on Approved Purposes. In setting those requirements the Council shall consider the Reporting Templates, Deliverables, Performance Measures, and other already utilized and existing templates and forms required by DCF from Managing Entities and suggest similar requirements be used by all parties to the agreement.</p>	<p>The council shall develop and recommend metrics, measures, or data sets to assess the progress and success of programs funded by expenditures of opioid settlement funds. The council must attempt to keep such metrics, measures, or data sets consistent with those used by the state with managing entities as well as any metrics, measures, or data sets required by the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services in connection with any grants received by the state. Upon request of the council, a county, municipality, managing entity, or state agency must provide the council data or information required to develop such metrics, measures, or data sets.</p> <p>The council, with assistance and support of the department, shall provide a system of documentation and reporting commensurate with the requirements of federal and other agencies providing funding to the state, including, but not limited to, auditing expenditures consistent with any requirements imposed by the Legislature.</p>
<p>The council shall provide and publish a report annually, no later than Nov. 30 or the first business day after Nov. 30. The report shall contain information on how monies were spend the previous fiscal year by the State, each of the Qualified counties, each of the Managing Entities, and each of the Local Governments. It shall also contain reccomendations to the Governor, the Legislatre, and Local Governments for priorities among the Approved Purposes or similar such uses for how monies should be spent the coming fiscal year to respond to the opioid epidemic.</p>	<p>Beginning December 1, 2023, the council shall publish an annual report on the websites of the Department of Legal Affairs and the Department of Children and Families no later than December 1 or the first business day after December 1, if December 1 falls on a weekend or holiday. The report must contain information on how settlement funds were spent the previous fiscal year by the state and by each of the managing entities, counties, and municipalities. The report must also contain recommendations to the Governor, the Legislature, and local governments for the prioritization of how funds should be spent during the subsequent fiscal year to effectively respond to the opioid epidemic.</p>

**Opioid Antagonists**

Opioid receptor antagonists block one or more of the opioid receptors in the central or peripheral nervous system. The two most commonly used, centrally-acting opioid receptor antagonists are naloxone and naltrexone. Naloxone comes in intravenous, intramuscular, and intranasal formulations and is FDA-approved for the use in an opioid overdose and the reversal of respiratory depression associated with opioid use. Naltrexone is available in both oral and long-acting injectable formulations and is FDA-approved for the treatment of opioid and/or alcohol maintenance treatment. The most commonly used peripheral opioid receptor antagonist is

methylbuprenorphine, which is a potent competitive antagonist acting at the digestive tract and is also FDA-approved for the treatment of opioid-induced constipation.<sup>19</sup>

### ***Emergency Administration of Opioid Antagonists***

Section 381.887, F.S., provides that the purpose of the section is to provide for the prescribing, ordering, and dispensing of emergency opioid antagonists (EOAs) to patients and caregivers and to encourage the prescribing, ordering, and dispensing of EOAs by authorized health care practitioners. The section states that:

- An authorized health care practitioner may prescribe and dispense an EOA to, and a pharmacist may order an EOA with an autoinjection delivery system or intranasal application delivery system for, a patient or caregiver for use in accordance with this section.
- A pharmacist may dispense an EOA pursuant to a prescription by an authorized health care practitioner. A pharmacist may dispense an EOA with an autoinjection delivery system or intranasal application delivery system, which must be appropriately labeled with instructions for use, pursuant to a pharmacist's order or pursuant to a non-patient specific standing order.
- A patient or caregiver is authorized to store and possess approved EOAs and, in an emergency situation when a physician is not immediately available, administer the EOA to a person believed in good faith to be experiencing an opioid overdose, regardless of whether that person has a prescription for an EOA.

The section also authorizes emergency responders, crime laboratory personnel, and personnel of a law enforcement agency or another agency who, if they are likely to come in contact with a controlled substance or persons at risk of an overdose, to possess, store, and administer EOAs as clinically indicated and provides immunity for such persons as a result of administering an EOA.

Additionally, the section provides immunity to:

- A person, including, but not limited to, an authorized health care practitioner, a dispensing health care practitioner, or a pharmacist, who possesses, administers, prescribes, dispenses, or stores an approved EOA in compliance with this section and s. 768.13, F.S.<sup>20</sup>
- An authorized health care practitioner, acting in good faith and exercising reasonable care, for prescribing an EOA in accordance with this section.
- A dispensing health care practitioner or pharmacist, acting in good faith and exercising reasonable care, for dispensing an EOA in accordance with this section.

### ***The Good Samaritan Act***

Section 768.13, F.S., establishes the Good Samaritan Act. The Act provides civil immunity to any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations related to and arising out of a declared public health emergency, a declared state of emergency, or at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical

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<sup>19</sup> *Opioid Antagonists*, Theriot, Jonathan, et. al., (last updated July 23, 2021), available at <https://www.ncbi.nlm.nih.gov/books/NBK537079/#:~:text=3%5D%5B4%5D-.The%20two%20most%20commonly%20used%20centrally%20acting%20opioid%20receptor%20antagonists,depression%20associated%20with%20opioid%20use>. (last visited March 17, 2023).

<sup>20</sup> 768.12, F.S., is the Good Samaritan Act. Section 381.887, F.S., specifies that this immunity is the immunity afforded under the Good Samaritan Act.

equipment, without objection of the injured victim or victims thereof, for any damages resulting from the treatment or as a result of any act or failure to act in providing or arranging treatment where the person acts as an ordinary reasonably prudent person would.

The Good Samaritan Act also provides certain immunities to health care providers and health care practitioners providing emergency care in specified situations, to any person participating in emergency response activities under specified circumstances, and any person who renders emergency care or treatment to an injured animal in specified circumstances.

### **Statewide Drug Policy Advisory Council**

Established by s. 397.333, F.S., the Statewide Drug Policy Advisory Council (DPAC) is a council located within the Department of Health and made up of the following members:

- The Attorney General, or his or her designee.
- The executive director of the DLA, or his or her designee.
- The Secretary of DCF, or his or her designee.
- The director of the Office of Planning and Budgeting in the Executive Office of the Governor, or his or her designee.
- The Secretary of Corrections, or his or her designee.
- The Secretary of Juvenile Justice, or his or her designee.
- The Commissioner of Education, or his or her designee.
- The executive director of the Department of Highway Safety and Motor Vehicles, or his or her designee.
- The Adjutant General of the state as the Chief of the Department of Military Affairs, or his or her designee.
- Seven Members appointed by the Governor:
  - One member must have professional or occupational expertise in drug enforcement;
  - One member must have professional or occupational expertise in substance abuse prevention;
  - One member must have professional or occupational expertise in substance abuse treatment;
  - Two members must have professional or occupational expertise in faith-based substance abuse treatment services; and
  - The remainder of the members appointed should have professional or occupational expertise in, or be generally knowledgeable about, issues that relate to drug enforcement and substance abuse programs and services.
- One member of the Florida Senate appointed by the President of the Senate.
- One member of the Florida House of Representatives appointed by the Speaker of the House of Representatives; and
- One member of the judiciary appointed by the Chief Justice of the Supreme Court.

The DPAC is required to:

- Meet at least quarterly or upon the call of the chairperson;
- Conduct a comprehensive analysis of the problem of substance abuse in this state and make recommendations to the Governor and Legislature for developing and implementing a state drug control strategy;



- Review and make recommendations to the Governor and Legislature on funding substance abuse programs and services;
- Review various substance abuse programs and recommend, where needed, measures that are sufficient to determine program outcomes;
- Review the drug control strategies and programs of other states and the Federal Government;
- Recommend to the Governor and Legislature applied research projects that would use research capabilities within the state;
- Recommend to the Governor and Legislature changes in law which would remove barriers to or enhance the implementation of the state drug control strategy;
- Make recommendations to the Governor and the Legislature on the need for public information campaigns;
- Ensure that there is a coordinated, integrated, and multidisciplinary response to the substance abuse problem in this state;
- Assist communities and families in pooling their knowledge and experiences with respect to the problem of substance abuse;
- Examine the extent to which all state programs that involve substance abuse treatment can include a meaningful work component;
- Recommend to the Governor and the Legislature ways to expand and fund drug courts; and
- Submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1 of each year.

### **III. Effect of Proposed Changes:**

#### **Authorizations for Emergency Opioid Antagonists (EOAs)**

CS/SB 704 amends s. 381.887, F.S., to amend two definitions to clarify that caregivers need not have recurring contact with persons at risk of an opioid overdose to meet the definition and to include health care practitioners who dispense drugs in the definition of “authorized health care practitioner.” The change add dispensers will allow pharmacists to prescribe as well as dispense emergency opioid antagonists within the constraints of the section. Additionally, the bill adds emergency opioid antagonists that are delivered through a prefilled injection device delivery system to the types of opioid antagonists that may be prescribed, dispensed, and administered under the section.

#### **Statewide Council on Opioid Abatement (Council)**

The bill creates s. 397.335, F.S., to establish the Council within the DCF for the purpose of enhancing the development and coordination of state and local efforts to abate the opioid epidemic and to support the victims of the opioid crisis and their families.

#### ***Membership***

The bill provides that the Council be composed of 10 members as follows:

- The Attorney General, or a designee, who is the chair of the Council.
- The Secretary of the DCF, or a designee, who is the vice chair.
- A member appointed by the Governor.
- A member appointed by the President of the Senate.

- A member appointed by the Speaker of the House.
- Two members who are each a commissioner or mayor of a municipality, appointed by the Florida League of Cities. At least one such member must be from a municipality with a population of less than 50,000 people.
- Two members, one of whom is a county commissioner or mayor of a county with a population of less than 200,000 people and one of whom is a county commissioner or mayor of a county with a population in excess of 200,000 people, appointed by the Florida Association of Counties.
- One member who is either a county commissioner or county mayor, appointed by the Florida Association of Counties, or the commissioner or mayor of a municipality, appointed by the Florida League of Cities. The Florida Association of Counties shall appoint such member for the initial term, and future appointments must alternate between a member appointed by the Florida League of Cities, and the Florida Association of Counties.

The bill specifies that members are appointed to two-year terms and the members may not receive a commission, fee, or financial benefit in connection with service on the Council except that members may be reimbursed for per diem and travel expenses in accordance with s. 112.061, F.S.,<sup>21</sup> by the state agency that the member represents, or by the DCF if a member is not affiliated with a state agency.

### ***Organization and Support***

The bill requires the first meeting of the Council to occur no later than August 31, 2023, and quarterly thereafter, or upon the call of the chair or two other members. The bill allows meetings to take place in person or virtually and specifies that a majority of members constitutes a quorum.

The bill requires the DLA and the DCF to provide the Council with staff necessary to assist the Council with the performance of its duties. The Council is authorized to apply for and accept funds, grants, gifts, and services from the state, the federal government or any of its agencies, or any other public or private source for the purposes of defraying costs or performing its duties. The bill also requires that all members adhere to the rules, regulations, and laws of Florida including, but not limited to, s. 112.311, F.S., relating to disclosure of conflicts of interest and recusal from discussions or votes on conflicted matters.

### ***Duties of the Council***

The bill imparts the Council with the following duties:

- Advising the state and local governments on resolving or abating the opioid epidemic and reviewing how settlement monies recovered from the opioid litigation brought by the state and political subdivisions have been spent, and the results that have been achieved from such expenditures.
- Working with, and providing and receiving information from, the Statewide Drug Policy Advisory Council (DPAC) and making sure that its recommendations and actions are consistent with the recommendations of the DPAC to the extent possible.

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<sup>21</sup> Establishing set rates for travel and per diem reimbursement.

- Reviewing data from local, state, and national agencies, both on a regional and a statewide basis, to advise state and local governments on the status, severity, and stage of the opioid epidemic.
- Reviewing data from local governments, other states, and national agencies regarding how moneys are being spent to abate the opioid epidemic, the success of such programs, and the appropriate metrics needed to assess the epidemic and progress in abating it.
- Developing and recommending metrics, measures, or data sets to assess the progress and success of programs funded by expenditures of opioid settlement funds. The Council must attempt to keep such metrics, measures, or data sets consistent with those used by the state with managing entities as well as any metrics, measures, or data sets required by the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services in connection with any grants received by the state.
- With assistance and support of the DCF, providing a system of documentation and reporting commensurate with the requirements of federal and other agencies providing funding to the state, including, but not limited to, auditing expenditures consistent with any requirements imposed by the Legislature.
- Beginning December 1, 2023, publishing an annual report on the websites of the DLA and the DCF by each December 1st. The report must contain information on how opioid settlement funds were spent the previous fiscal year by the state and by each of the managing entities, counties, and municipalities. Additionally, the report must contain recommendations to the Governor, the Legislature, and local governments for the prioritization of how funds should be spent during the subsequent fiscal year to effectively respond to the opioid epidemic.

#### ***Requirements for Other Governmental Entities and Managing Entities***

The bill requires that:

- By June 30 of each year, each county, municipality, managing entity, or state agency that receives opioid settlement funds shall provide information to the Council on how it intends to use the funds and how it intends to collect data regarding its use of funds.
- By August 31 of each year, each county, municipality, managing entity, or state agency that receives opioid settlement funds must provide information to the Council on expenditures of settlement funds and the results obtained from those expenditures.
- Upon request of the Council, a county, municipality, managing entity, or state agency must provide the Council information required to develop metrics, measures, or data sets consistent with those used by the state with managing entities as well as any metrics, measures, or data sets required by the Substance Abuse and Mental Health Services Administration (SAMHSA) within the U.S. Department of Health and Human Services on grants received by the state.

The bill is effective upon becoming law.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The bill has an indeterminate fiscal impact on the DCF and the DLA associated with staffing the Council.<sup>22</sup> The DOH is also expected to incur some nonrecurring costs to update the Licensing and Enforcement Information Database and other database systems for the Medical Quality Assurance Program.<sup>23</sup> However, the impact on each agency will likely be insignificant and can be absorbed by each department within their existing resources.

The bill may have a positive fiscal impact on the State and local governments in that the Council is a requirement of the multistate opioid settlement agreement and is necessary in order to receive Florida's portion of the approximately \$26 billion settlement agreement.

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<sup>22</sup> The Department of Children and Families, *Senate Bill 704 Fiscal Analysis* (March 2023) (on file with Senate Appropriations Committee on Health and Human Services).

<sup>23</sup> The Department of Health, *House Bill 783 Fiscal Analysis* (March 2023).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 381.887 of the Florida Statutes.

This bill creates section 397.335 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Fiscal Policy on April 20, 2023:**

The CS:

- Removes the current bill provisions related to the administration and dispensing of opioid antagonists by emergency responders and pharmacists.
- Amends definitions related to emergency treatment for suspected opioid overdoses to:
  - Expand the definition of “authorized health care practitioner” to include practitioners who dispense drugs, as well as prescribe drugs. Effectively, this will allow pharmacists to prescribe, as well as dispense, emergency opioid antagonists to authorized persons.
  - Specify that a caregiver only must have contact with, rather than recurring contact with, a person at risk for an opioid overdose.
- Authorizes the use of emergency opioid antagonists with prefilled injection device delivery systems.
- Amends language creating the Statewide Council on Opioid Abatement to specify that the council must review data from other states regarding how opioid monies are spent in order to assess the effectiveness of such programs.
- Removes language granting the Department of Legal Affairs authority to subpoena data from local governments.
- Conforms a date for reporting specified data to the council to the requirements of the settlement agreement.
- Makes other technical amendments to the language creating the Statewide Council on Opioid Abatement.

**B. Amendments:**

None.