Sen. Melinda Bush

Filed: 4/5/2019

AMENDMENT TO SENATE BILL 1828

AMENDMENT NO. _____. Amend Senate Bill 1828 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Overdose Prevention and Harm Reduction Act.

Section 5. Needle and hypodermic syringe access program.

(a) Any governmental or nongovernmental organization, including a local health department, community-based organization, or a person or entity, that promotes scientifically proven ways of mitigating health risks associated with drug use and other high-risk behaviors may establish and operate a needle and hypodermic syringe access program. The objective of the program shall be accomplishing all of the following:

(1) reducing the spread of HIV, AIDS, viral hepatitis, and other bloodborne diseases;

(2) reducing the potential for needle stick injuries from discarded contaminated equipment; and

(3) facilitating connections or linkages to evidence-based treatment.

(b) Programs established under this Act shall provide all of the following:

(1) Disposal of used needles and hypodermic syringes.

(2) Needles, hypodermic syringes, and other safer drug consumption supplies, at no cost and in quantities sufficient to ensure that needles, hypodermic syringes, or other supplies are not shared or reused.

(3) Educational materials or training on:

(A) overdose prevention and intervention; and

(B) the prevention of HIV, AIDS, viral hepatitis, and other common bloodborne diseases resulting from shared drug consumption equipment and supplies.

(4) Access to opioid antagonists approved for the reversal of an opioid overdose, or referrals to programs that provide access to opioid antagonists approved for the reversal of an opioid overdose.

(5) Linkages to needed services, including mental health treatment, housing programs, substance use disorder treatment, and other relevant community services.

(6) Individual consultations from a trained employee tailored to individual needs.

(7) If feasible, a hygienic, separate space for

individuals who need to administer a prescribed injectable medication that can also be used as a quiet space to gather composure in the event of an adverse on-site incident, such as a nonfatal overdose.

(8) If feasible, access to on-site drug adulterant testing supplies such as reagents, test strips, or quantification instruments that provide critical real-time information on the composition of substances obtained for consumption.

(c) Notwithstanding any provision of the Illinois Controlled Substances Act, the Drug Paraphernalia Control Act, or any other law, no employee or volunteer of or participant in a program established under this Act shall be charged with or prosecuted for possession of any of the following:

(1) Needles, hypodermic syringes, or other drug consumption paraphernalia obtained from or returned, directly or indirectly, to a program established under this Act.

(2) Residual amounts of a controlled substance contained in used needles, used hypodermic syringes, or other used drug consumption paraphernalia obtained from or returned, directly or indirectly, to a program established under this Act.

(3) Drug adulterant testing supplies such as reagents, test strips, or quantification instruments obtained from or returned, directly or indirectly, to a program

established under this Act.

(4) Any residual amounts of controlled substances used in the course of testing the controlled substance to determine the chemical composition and potential threat of the substances obtained for consumption that are obtained from or returned, directly or indirectly, to a program established under this Act.

In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer who, acting on good faith, arrests or charges a person who is thereafter determined to be entitled to immunity from prosecution under this subsection (c) shall not be subject to civil liability for the arrest or filing of charges.

(d) Prior to the commencing of operations of a program established under this Act, the governmental or nongovernmental organization shall submit to the Illinois Department of Public Health all of the following information:

(1) the name of the organization, agency, group, person, or entity operating the program;

(2) the areas and populations to be served by the program; and

(3) the methods by which the program will meet the requirements of subsection (b) of this Section.

The Department of Public Health may adopt rules to implement this subsection.

Section 100. The Substance Use Disorder Act is amended by changing Section 5-23 as follows:

(20 ILCS 301/5-23)

Sec. 5-23. Drug Overdose Prevention Program.

(a) Reports ~~of drug overdose~~.

(1) The Department may publish annually a report on drug overdose trends statewide that reviews State death rates from available data to ascertain changes in the causes or rates of fatal and nonfatal drug overdose. The report shall also provide information on interventions that would be effective in reducing the rate of fatal or nonfatal drug overdose and on the current substance use disorder treatment capacity within the State. The report shall include an analysis of drug overdose information reported to the Department of Public Health pursuant to subsection (e) of Section 3-3013 of the Counties Code, Section 6.14g of the Hospital Licensing Act, and subsection (j) of Section 22-30 of the School Code.

(2) The report may include:

(A) Trends in drug overdose death rates.

(B) Trends in emergency room utilization related to drug overdose and the cost impact of emergency room utilization.

(C) Trends in utilization of pre-hospital and emergency services and the cost impact of emergency

services utilization.

(D) Suggested improvements in data collection.

(E) A description of other interventions effective in reducing the rate of fatal or nonfatal drug overdose.

(F) A description of efforts undertaken to educate the public about unused medication and about how to properly dispose of unused medication, including the number of registered collection receptacles in this State, mail-back programs, and drug take-back events.

(G) An inventory of the State's substance use disorder treatment capacity, including, but not limited to:

(i) The number and type of licensed treatment programs in each geographic area of the State.

(ii) The availability of medication-assisted treatment at each licensed program and which types of medication-assisted treatment are available.

(iii) The number of recovery homes that accept individuals using medication-assisted treatment in their recovery.

(iv) The number of medical professionals currently authorized to prescribe buprenorphine and the number of individuals who fill prescriptions for that medication at retail pharmacies as prescribed.

(v) Any partnerships between programs licensed by the Department and other providers of medication-assisted treatment.

(vi) Any challenges in providing medication-assisted treatment reported by programs licensed by the Department and any potential solutions.

(b) Programs; drug overdose prevention.

(1) The Department may establish a program to provide for the production and publication, in electronic and other formats, of drug overdose prevention, recognition, and response literature. The Department may develop and disseminate curricula for use by professionals, organizations, individuals, or committees interested in the prevention of fatal and nonfatal drug overdose, including, but not limited to, drug users, jail and prison personnel, jail and prison inmates, drug treatment professionals, emergency medical personnel, hospital staff, families and associates of drug users, peace officers, firefighters, public safety officers, needle exchange program staff, and other persons. In addition to information regarding drug overdose prevention, recognition, and response, literature produced by the Department shall stress that drug use remains illegal and highly dangerous and that complete abstinence from illegal drug use is the healthiest choice. The literature shall

provide information and resources for substance use disorder treatment.

The Department may establish or authorize programs for prescribing, dispensing, or distributing opioid antagonists for the treatment of drug overdose. Such programs may include the prescribing of opioid antagonists for the treatment of drug overdose to a person who is not at risk of opioid overdose but who, in the judgment of the health care professional, may be in a position to assist another individual during an opioid-related drug overdose and who has received basic instruction on how to administer an opioid antagonist.

(2) The Department may provide advice to State and local officials on the growing drug overdose crisis, including the prevalence of drug overdose incidents, programs promoting the disposal of unused prescription drugs, trends in drug overdose incidents, and solutions to the drug overdose crisis.

(3) The Department may support drug overdose prevention, recognition, and response projects by facilitating the acquisition of opioid antagonist medication approved for opioid overdose reversal, facilitating the acquisition of opioid antagonist medication approved for opioid overdose reversal, providing trainings in overdose prevention best practices, connecting programs to medical resources, establishing a

statewide standing order for the acquisition of needed medication, establishing learning collaboratives between localities and programs, and assisting programs in navigating any regulatory requirements for establishing or expanding such programs.

(4) In supporting best practices in drug overdose prevention programming, the Department may promote the following programmatic elements:

(A) Training individuals who currently use drugs in the administration of opioid antagonists approved for the reversal of an opioid overdose.

(B) Directly distributing opioid antagonists approved for the reversal of an opioid overdose rather than providing prescriptions to be filled at a pharmacy.

(C) Conducting street and community outreach to work directly with individuals who are using drugs.

(D) Employing community health workers or peer recovery specialists who are familiar with the communities served and can provide culturally competent services.

(E) Collaborating with other community-based organizations, substance use disorder treatment centers, or other health care providers engaged in treating individuals who are using drugs.

(F) Providing linkages for individuals to obtain

evidence-based substance use disorder treatment.

(G) Engaging individuals exiting jails or prisons who are at a high risk of overdose.

(H) Providing education and training to community-based organizations who work directly with individuals who are using drugs and those individuals' families and communities.

(I) Providing education and training on drug overdose prevention and response to emergency personnel and law enforcement.

(J) Informing communities of the important role emergency personnel play in responding to accidental overdose.

(K) Producing and distributing targeted mass media materials on drug overdose prevention and response, the potential dangers of leaving unused prescription drugs in the home, and the proper methods for disposing of unused prescription drugs.

(c) Grants.

(1) The Department may award grants, in accordance with this subsection, to create or support local drug overdose prevention, recognition, and response projects. Local health departments, correctional institutions, hospitals, universities, community-based organizations, and faith-based organizations may apply to the Department for a grant under this subsection at the time and in the manner

the Department prescribes.

(2) In awarding grants, the Department shall consider the necessity for overdose prevention projects in various settings and shall encourage all grant applicants to develop interventions that will be effective and viable in their local areas.

(3) (Blank). ~~The Department shall give preference for grants to proposals that, in addition to providing life-saving interventions and responses, provide information to drug users on how to access substance use disorder treatment or other strategies for abstaining from illegal drugs. The Department shall give preference to proposals that include one or more of the following elements:~~

~~(A) Policies and projects to encourage persons, including drug users, to call 911 when they witness a potentially fatal drug overdose.~~

~~(B) Drug overdose prevention, recognition, and response education projects in drug treatment centers, outreach programs, and other organizations that work with, or have access to, drug users and their families and communities.~~

~~(C) Drug overdose recognition and response training, including rescue breathing, in drug treatment centers and for other organizations that work with, or have access to, drug users and their~~

~~families and communities.~~

~~(D) The production and distribution of targeted or mass media materials on drug overdose prevention and response, the potential dangers of keeping unused prescription drugs in the home, and methods to properly dispose of unused prescription drugs.~~

~~(E) Prescription and distribution of opioid antagonists.~~

~~(F) The institution of education and training projects on drug overdose response and treatment for emergency services and law enforcement personnel.~~

~~(G) A system of parent, family, and survivor education and mutual support groups.~~

(4) In addition to moneys appropriated by the General Assembly, the Department may seek grants from private foundations, the federal government, and other sources to fund the grants under this Section and to fund an evaluation of the programs supported by the grants.

(d) Health care professional prescription of opioid antagonists.

(1) A health care professional who, acting in good faith, directly or by standing order, prescribes or dispenses an opioid antagonist to: (a) a patient who, in the judgment of the health care professional, is capable of administering the drug in an emergency, or (b) a person who is not at risk of opioid overdose but who, in the judgment

of the health care professional, may be in a position to assist another individual during an opioid-related drug overdose and who has received basic instruction on how to administer an opioid antagonist shall not, as a result of his or her acts or omissions, be subject to: (i) any disciplinary or other adverse action under the Medical Practice Act of 1987, the Physician Assistant Practice Act of 1987, the Nurse Practice Act, the Pharmacy Practice Act, or any other professional licensing statute or (ii) any criminal liability, except for willful and wanton misconduct.

(2) A person who is not otherwise licensed to administer an opioid antagonist may in an emergency administer without fee an opioid antagonist if the person has received the patient information specified in paragraph (4) of this subsection and believes in good faith that another person is experiencing a drug overdose. The person shall not, as a result of his or her acts or omissions, be (i) liable for any violation of the Medical Practice Act of 1987, the Physician Assistant Practice Act of 1987, the Nurse Practice Act, the Pharmacy Practice Act, or any other professional licensing statute, or (ii) subject to any criminal prosecution or civil liability, except for willful and wanton misconduct.

(3) A health care professional prescribing an opioid antagonist to a patient shall ensure that the patient

receives the patient information specified in paragraph (4) of this subsection. Patient information may be provided by the health care professional or a community-based organization, substance use disorder program, or other organization with which the health care professional establishes a written agreement that includes a description of how the organization will provide patient information, how employees or volunteers providing information will be trained, and standards for documenting the provision of patient information to patients. Provision of patient information shall be documented in the patient's medical record or through similar means as determined by agreement between the health care professional and the organization. The Department, in consultation with statewide organizations representing physicians, pharmacists, advanced practice registered nurses, physician assistants, substance use disorder programs, and other interested groups, shall develop and disseminate to health care professionals, community-based organizations, substance use disorder programs, and other organizations training materials in video, electronic, or other formats to facilitate the provision of such patient information.

(4) For the purposes of this subsection:

"Opioid antagonist" means a drug that binds to opioid receptors and blocks or inhibits the effect of opioids

acting on those receptors, including, but not limited to, naloxone hydrochloride or any other similarly acting drug approved by the U.S. Food and Drug Administration.

"Health care professional" means a physician licensed to practice medicine in all its branches, a licensed physician assistant with prescriptive authority, a licensed advanced practice registered nurse with prescriptive authority, an advanced practice registered nurse or physician assistant who practices in a hospital, hospital affiliate, or ambulatory surgical treatment center and possesses appropriate clinical privileges in accordance with the Nurse Practice Act, or a pharmacist licensed to practice pharmacy under the Pharmacy Practice Act.

"Patient" includes a person who is not at risk of opioid overdose but who, in the judgment of the physician, advanced practice registered nurse, or physician assistant, may be in a position to assist another individual during an overdose and who has received patient information as required in paragraph (2) of this subsection on the indications for and administration of an opioid antagonist.

"Patient information" includes information provided to the patient on drug overdose prevention and recognition; how to perform rescue breathing and resuscitation; opioid antagonist dosage and administration; the importance of

calling 911; care for the overdose victim after administration of the overdose antagonist; and other issues as necessary.

(e) Drug overdose response policy.

(1) Every State and local government agency that employs a law enforcement officer or fireman as those terms are defined in the Line of Duty Compensation Act must possess opioid antagonists and must establish a policy to control the acquisition, storage, transportation, and administration of such opioid antagonists and to provide training in the administration of opioid antagonists. A State or local government agency that employs a fireman as defined in the Line of Duty Compensation Act but does not respond to emergency medical calls or provide medical services shall be exempt from this subsection.

(2) Every publicly or privately owned ambulance, special emergency medical services vehicle, non-transport vehicle, or ambulance assist vehicle, as described in the Emergency Medical Services (EMS) Systems Act, that responds to requests for emergency services or transports patients between hospitals in emergency situations must possess opioid antagonists.

(3) Entities that are required under paragraphs (1) and (2) to possess opioid antagonists may also apply to the Department for a grant to fund the acquisition of opioid antagonists and training programs on the administration of

opioid antagonists.

(Source: P.A. 99-173, eff. 7-29-15; 99-480, eff. 9-9-15; 99-581, eff. 1-1-17; 99-642, eff. 7-28-16; 100-201, eff. 8-18-17; 100-513, eff. 1-1-18; 100-759, eff. 1-1-19.)

Section 200. The Hypodermic Syringes and Needles Act is amended by changing Sections 1 and 2 as follows:

(720 ILCS 635/1) (from Ch. 38, par. 22-50)

Sec. 1. Possession of hypodermic syringes and needles.

(a) Except as provided in subsection (b), no person, not being a physician, dentist, chiropodist or veterinarian licensed under the laws of this State or of the state where he resides, or a registered professional nurse, or a registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, registered pharmacist, manufacturer of surgical instruments, industrial user, official of any government having possession of the articles hereinafter mentioned by reason of his or her official duties, nurse or a medical laboratory technician acting under the direction of a physician or dentist, employee of an incorporated hospital acting under the direction of its superintendent or officer in immediate charge, or a carrier or messenger engaged in the transportation of the articles, or the holder of a permit issued under Section 5 of this Act, or a farmer engaged in the use of the instruments on livestock, or a

person engaged in chemical, clinical, pharmaceutical or other scientific research, or a staff person, volunteer, or participant in a needle or hypodermic syringe access program, shall have in his or her possession a hypodermic syringe, hypodermic needle, or any instrument adapted for the use of controlled substances or cannabis by subcutaneous injection.

(b) A person who is at least 18 years of age may purchase from a pharmacy and have in his or her possession up to 100 hypodermic syringes or needles.

(Source: P.A. 100-326, eff. 1-1-18.)

(720 ILCS 635/2) (from Ch. 38, par. 22-51)

Sec. 2. Sale of hypodermic syringes and needles.

(a) Except as provided in subsection (b), no syringe, needle or instrument shall be delivered or sold to, or exchanged with, any person except a registered pharmacist, physician, dentist, veterinarian, registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, industrial user, a nurse upon the written order of a physician or dentist, the holder of a permit issued under Section 5 of this Act, a registered chiropodist, or an employee of an incorporated hospital upon the written order of its superintendent or officer in immediate charge; provided that the provisions of this Act shall not prohibit the sale, possession or use of hypodermic syringes or hypodermic needles for treatment of livestock or poultry by the

owner or keeper thereof or a person engaged in chemical, clinical, pharmaceutical or other scientific research, or a staff person, volunteer, or participant in a needle or hypodermic syringe access program.

(b) A pharmacist may sell up to 100 sterile hypodermic syringes or needles to a person who is at least 18 years of age. A syringe or needle sold under this subsection (b) must be stored at a pharmacy and in a manner that limits access to the syringes or needles to pharmacists employed at the pharmacy and any persons designated by the pharmacists. A syringe or needle sold at a pharmacy under this subsection (b) may be sold only from the pharmacy department of the pharmacy.

(Source: P.A. 100-326, eff. 1-1-18.)

Section 999. Effective date. This Act takes effect upon becoming law.".