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House Bill 4367 (Substitute S-2)  
Sponsor: Representative Jason M. Sheppard  
House Committee: Government Operations  
Senate Committee: Health Policy and Human Services

Date Completed: 4-30-19

### **CONTENT**

**The bill would create the "Administration of Opioid Antagonists Act" to do the following:**

- Allow an agency to purchase and possess an opioid antagonist, and to distribute it to an employee or agent.**
- Allow an employee or agent to administer an opioid antagonist to an individual, if he or she had been trained in the administration of an opioid antagonist and had reason to believe that the individual was experiencing an opioid-related overdose.**
- Exempt from civil liability an agency that purchased, possessed, or distributed an opioid antagonist, and an employee or agent who possessed or in good faith administered an opioid antagonist, if the conduct did not amount to gross negligence.**
- Exempt from criminal prosecution an agency that purchased, possessed, or distributed an opioid antagonist, and an employee or agent that possessed or in good faith administered an opioid antagonist.**

The bill also would repeal Public Act 462 of 2014, which allows law enforcement agencies and peace officers to possess and administer opioid antagonists under certain circumstances.

The bill is tie-barred to Senate Bills 200, 282, and 283, and would take effect 90 days after its enactment. (Senate Bill 200 (S-1) would allow a prescriber to issue a prescription for, and allow a dispensing prescriber or pharmacist to dispense an opioid antagonist to an agency authorized under this proposed Act. Senate Bill 282 (S-1) would delete a provision in the Public Health Code related to the use of opioid antagonists by life support vehicles. Senate Bill 283 would delete certain definitions related to opioids in the Revised School Code.)

### **Definitions**

"Opioid antagonist" would mean naloxone hydrochloride or any other similarly acting and equally safe drug approved by the United States Food and Drug Administration for the treatment of drug overdose.

"Agency" would mean a governmental agency or life support agency. "Governmental agency" would mean the State or a political subdivision. "Life support agency" would mean that term as defined in Section 20906 of the Public Health Code: an ambulance operation, nontransport

prehospital life support operation, aircraft transport operation, or medical first response service.

"Political subdivision" would mean a municipal corporation, county, county road commission, school district, community college district metropolitan district, or transportation authority or a combination of two or more of these when acting jointly; a district or authority authorized by law or formed by one or more political subdivisions; or an agency, department, court, board, or council of a political subdivision.

"State" would mean the State and its agencies, departments, commissions, courts, boards, councils, and statutorily created task forces. The term would include a public university or college of the State, whether established as a constitutional corporation or otherwise.

#### Opioid Antagonist; Possession & Distribution

The proposed Act would allow an agency to purchase and possess an opioid antagonist and to distribute it to an employee or agent who had been trained in the administration of that opioid antagonist.

An employee or agent could possess an opioid antagonist distributed to him or her, and could administer that opioid antagonist to an individual if both of the following applied:

- The employee or agent had been trained in the proper administration of the opioid antagonist.
- The employee or agent had reason to believe that the individual was experiencing an opioid-related overdose.

"Employee or agent" would mean any of the following:

- An individual who is employed by, or under contract with, an agency.
- An individual who serves on the governing body of an agency.
- An individual who volunteers with an agency.

"Opioid-related overdose" would mean a condition, including extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death, that results from the consumption or use of an opioid or another substance with which an opioid was combined or that a reasonable person would believe to be an opioid-related overdose that requires medical assistance.

#### Immunity from Civil Liability or Prosecution

An agency that purchased, possessed, or distributed an opioid antagonist, and an employee or agent that possessed or in good faith administered an opioid antagonist, would be immune from civil liability for injuries or damages arising out of the administration of that opioid antagonist to an individual if the conduct did not amount to gross negligence that was the proximate cause of the injury or damage, and would not be subject to criminal prosecution for purchasing, possessing, or distributing an opioid antagonist or for administering it to an individual.

"Gross negligence" would mean that term as defined in the governmental immunity law: conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

The bill also specifies that any immunity provided under the proposed Act would be in addition to any immunity otherwise provided by law.

Legislative Analyst: Tyler VanHuyse

### **FISCAL IMPACT**

The bill would have no direct fiscal impact on the State or local governments because it would allow, rather than require, agencies to have employees trained to administer opioid antagonists. Agencies that opted to purchase and use opioid antagonists as allowed under the bill could incur supply and training costs. The bill's immunity provisions could reduce the number of prosecutions and convictions for possession or administration of controlled substances by employees or agents, thus potentially reducing court and corrections costs and costs of litigation for an agency that chose to purchase and possess opioid antagonists and train agents or employees in the administration of opioid antagonists.

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.