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BILL



ANALYSIS

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House Bill 4843 (as passed by the House)
Sponsor: Representative Al Pscholka
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 11-4-15

CONTENT

The bill would amend the Public Health Code to do the following:

- Exempt a person under 21 years of age from prohibitions against possessing and using certain prescription drugs, if he or she sought medical assistance or accompanied another person who sought assistance for a drug overdose or other perceived medical emergency.**
- Specify that the proposed exemptions would not prevent investigation and prosecution of a person for any other violation or be grounds for suppression of evidence in the prosecution of other criminal charges.**
- Require a health facility or agency to develop a process for notifying the parent, guardian, or custodian of a minor under the age of 18 who sought or was presented for emergency medical treatment for a drug overdose or other perceived medical emergency.**

The bill would take effect 90 days after its enactment.

Exemption from Prescription Drug Prohibitions

The Code prohibits a person from knowingly or intentionally possessing a controlled substance or controlled substance analogue unless it was obtained pursuant to a valid prescription or order of a medical practitioner. The Code also prohibits a person from using such a substance unless it was obtained pursuant to a valid prescription or order. The penalties for violations vary depending on the substance possessed or used and, in the case of possession, the amount of certain substances.

Under the bill, a person under 21 years of age would not be considered to be in violation of the possession or use prohibition if he or she sought medical assistance for himself or herself, or required medical assistance and was presented for assistance by another person if he or she were incapacitated, because of a drug overdose or other perceived medical emergency. The exemption would apply to an incident arising from the use of a prescription drug that was a controlled substance or controlled substance analogue that the person possessed in an amount sufficient only for personal use and if evidence of the violation were obtained as a result of the individual's seeking or being presented for medical assistance.

The Code's possession and use prohibitions also would not apply to an individual under 21 who, in good faith, attempted to procure medical assistance for another person or who accompanied another person who required medical assistance for a drug overdose or other perceived medical emergency. The exemption would apply to an incident arising from the use

of a prescription drug that was a controlled substance or a controlled substance analogue that the individual possessed in an amount sufficient only for personal use and if the evidence of the violation were obtained as a result of the person's attempting to procure medical assistance for another or as a result of the individual's accompanying another person who required medical assistance to a health facility or agency.

The proposed exemptions would not prevent the investigation, arrest, charging, or prosecution of a person for any other violation of law or be grounds for suppression of evidence in the prosecution of any other criminal charges.

The bill would define "drug overdose" as a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, that is the result of consumption or use of a controlled substance or a controlled substance analogue or a substance with which the controlled substance or controlled substance analogue was combined, or that a layperson would reasonable believe to be a drug overdose that requires medical assistance.

"Seeks medical assistance" would include, but would not be limited to, reporting a drug overdose or other medical emergency to law enforcement, the 9-1-1 system, a poison control center, or a medical provider, or assisting someone in reporting a drug overdose or other medical emergency.

Process for Notifying Parents

The bill would require a health facility or agency to develop a process for notification of the parent or parents, guardian, or custodian of a minor under the age of 18 who was not emancipated and who voluntarily presented himself or herself, or was presented by another person if he or she were incapacitated, to a health facility or agency for emergency medical treatment, as described above. A health facility or agency could not notify a parent, guardian, or custodian of nonemergency treatment without obtaining the minor's consent.

MCL 333.7403 & 333.7404

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have a positive fiscal impact on State and local government, although the magnitude of the impact would depend on the number of people under 21 years old who would no longer be charged. A decrease in misdemeanor and felony arrests could free up resource demands on law enforcement, court systems, community supervision, and jails and prisons. For any decrease in prison intakes, in the short term, the marginal savings to State government would be approximately \$3,764 per prisoner per year. In the long term, if the reduced intake of prisoners reduced the total prisoner population enough to allow the Department of Corrections to close a housing unit or an entire facility, the marginal savings to State government would be approximately \$34,550 per prisoner per year. Any associated decrease in fine revenue would reduce revenue to public libraries.

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.