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H.P. 1273

House of Representatives, May 19, 2021

An Act To Establish the Accidental Drug Overdose Death Review Panel

(EMERGENCY)

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative EVANS of Dover-Foxcroft. (GOVERNOR'S BILL)

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the number of individuals residing in Maine who die as the result of an
4 accidental drug overdose is increasing and exceeds the national average on a per capita
5 basis; and

6 **Whereas,** this legislation must take effect before the expiration of the 90-day period
7 to help prevent, as soon as possible, accidental drug overdose deaths; and

8 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
9 the meaning of the Constitution of Maine and require the following legislation as
10 immediately necessary for the preservation of the public peace, health and safety; now,
11 therefore,

12 **Be it enacted by the People of the State of Maine as follows:**

13 **Sec. 1. 5 MRSA §200-M** is enacted to read:

14 **§200-M. Accidental Drug Overdose Death Review Panel**

15 There is created, within the Office of the Attorney General, the Accidental Drug
16 Overdose Death Review Panel, referred to in this section as "the panel," in order to
17 recommend to state, county and local agencies methods of preventing deaths as the result
18 of accidental drug overdoses including modification or enactment of laws, rules, policies
19 and procedures. For purposes of this section, "accidental drug overdoses" means those
20 overdoses that are presumed to be self-administered by an individual and excludes any
21 overdose that occurs within a licensed health care facility.

22 **1. Composition.** The panel consists of the following members:

23 A. The Chief Medical Examiner, ex officio;

24 B. The Commissioner of Public Safety, ex officio;

25 C. The director of the office of behavioral health within the Department of Health and
26 Human Services, ex officio;

27 D. The Director of the Maine Center for Disease Control and Prevention within the
28 Department of Health and Human Services, ex officio;

29 E. The Chief Justice of the Supreme Judicial Court, ex officio;

30 F. A prosecutor, nominated by a statewide association of prosecutors and appointed
31 by the Attorney General;

32 G. A police chief, nominated by a statewide association of chiefs of police and
33 appointed by the Attorney General;

34 H. A sheriff, nominated by a statewide association of sheriffs and appointed by the
35 Attorney General;

36 I. One or more physicians who treat substance use disorder, appointed by the
37 Governor;

38 J. An emergency medical services representative, appointed by the Commissioner of
39 Public Safety;

1 K. An expert in harm reduction strategies, appointed by the Governor;

2 L. An academic research professor with experience in reviewing drug overdose deaths,
3 appointed by the Attorney General;

4 M. A representative of families affected by drug overdose deaths, appointed by the
5 Governor;

6 N. A person in recovery from substance use disorder, appointed by the Governor; and

7 O. The director of opioid response within the Governor's Office of Policy Innovation
8 and the Future, ex officio, who shall chair the panel.

9 In making appointments to the panel, the appointing authorities shall take into
10 consideration the racial and ethnic diversity of the State.

11 **2. Designees; terms of office.** An ex officio member may appoint a designee to
12 represent the ex officio member on the panel. A designee, once appointed, qualifies as a
13 full voting member of the panel and may hold office and enjoy all the other rights and
14 privileges of full membership on the panel. Appointed members of the panel shall serve
15 for a term of 3 years. Any vacancy on the panel must be filled in the same manner as the
16 original appointment but for the unexpired term.

17 **3. Meetings.** The panel shall meet at such time or times as may be reasonably
18 necessary to carry out its duties, but it shall meet at least twice per year. The panel's chair
19 shall call the first meeting before July 1, 2021.

20 **4. Powers and duties.** The panel shall examine a subset of the deaths associated with
21 accidental drug overdoses, taking into consideration the racial and ethnic composition of
22 the population of individuals whose deaths are associated with an accidental drug overdose.
23 The deaths selected for review must be recommended by the Chief Medical Examiner or
24 the Chief Medical Examiner's designee or by an individual with whom the Office of the
25 Attorney General contracts for services. Notwithstanding any provision of law to the
26 contrary, the panel may review information surrounding an accidental drug overdose that
27 was not fatal, as long as review of such a case promotes the purpose of the panel under this
28 section. The panel shall recommend to state, county and local agencies methods of
29 preventing deaths as the result of accidental drug overdoses including modification or
30 enactment of laws, rules, policies and procedures.

31 **5. Access to information, records and materials.** In any case subject to review by
32 the panel, upon oral or written request of the panel, notwithstanding any provision of law
33 to the contrary, any person that possesses information or records that are necessary and
34 relevant to a panel review shall as soon as practicable provide the panel with the
35 information and records. Persons disclosing or providing information or records upon
36 request of the panel are not criminally or civilly liable for disclosing or providing
37 information or records in compliance with this subsection.

38 **6. Confidentiality.** The proceedings and records of the panel are confidential and are
39 not subject to subpoena, discovery or introduction into evidence in a civil or criminal
40 action. The Office of the Attorney General shall disclose conclusions of the panel upon
41 request, but may not disclose information, records or data that are otherwise classified as
42 confidential.

1 **7. Noninterference.** A review by the panel under this section is subject to and may
2 not interfere with the authority and responsibility of the Attorney General to investigate
3 and prosecute homicides pursuant to Title 5, section 200-A.

4 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
5 takes effect when approved.

6 **SUMMARY**

7 This bill establishes the Accidental Drug Overdose Death Review Panel to review a
8 subset of deaths caused by accidental drug overdoses and to recommend to state, county
9 and local agencies methods of preventing deaths as the result of accidental drug overdoses
10 including modification or enactment of laws, rules, policies and procedures.