

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act Regarding the Epidemic of Opiate Abuse

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

Sec. 1. 15 MRSA §5826, sub-§6, as amended by PL 1999, c. 408, §3, is further amended to read:

6. Final order of disposition of property; public education campaign. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record and following the court's disposition of all petitions for hearing timely filed by 3rd parties, the State has clear title to property that is the subject of the indictment, information or complaint. The final order must provide for the deposit of the property or the proceeds from the disposition of the property, less the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, in the General Fund, except that, to the extent that the court finds it reasonable, the court may order forfeiture of as much of the property as is appropriate, less the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, to a municipality, county or state agency that has made a substantial contribution to the investigation or prosecution of a related criminal case or, upon request of the investigating agency or the prosecuting agency, to a law enforcement agency in this State that provides case management and other social services to persons with substance use disorders.

Sec. 2. 17-A MRSA §1105-B, sub-§1, ¶D, as enacted by PL 2003, c. 476, §5, is amended to read:

D. Death or serious bodily injury of another person is in fact caused by the use of ~~that counterfeit drug~~ one or more drugs and the drug furnished by the defendant is a contributing factor to the death or serious bodily injury of the other person.

Sec. 3. 17-A MRSA §1105-C, sub-§1, ¶K, as enacted by PL 2003, c. 476, §7, is amended to read:

K. Death of another person is in fact caused by the use of ~~that scheduled drug~~ one or more drugs and the drug is a schedule W drug furnished by the defendant is a contributing factor to the death of the other person. A violation of this paragraph is a Class B crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished was lawfully possessed by the defendant prior to furnishing and that the death was not a reasonably foreseeable consequence of the use of that scheduled drug. In determining whether the death was reasonably foreseeable, the jury shall consider:

- (1) The factual circumstances surrounding the furnishing of the drug;
- (2) The total quantity of the drug furnished;

- (3) The dosage of the units furnished;
- (4) The nature of the drug;
- (5) The overdose risk presented by use of the drug; and
- (6) Any safety warnings provided to the defendant at the time of dispensing the drug; or

Sec. 4. 22 MRSA §7250, sub-§7 is enacted to read:

7. Report regarding program. The department shall provide to the joint standing committee of the Legislature having jurisdiction over health and human services matters on or before January 15th of each year, and at such other times as the committee requests, data pertaining to the aggregate number of prescriptions of each drug required to be included in the program, the number of prescribers participating in the program categorized by specialty, any historical trends or patterns in prescribing practices within the State, any progress in the implementation of information sharing agreements authorized by subsection 4-A and any other information pertaining to the work of the program as requested by the committee that is reasonably available to the department, as long as all information reasonably likely to reveal the patient or the prescriber or other person who is the subject of the information has been removed.

SUMMARY

This bill addresses the opiate crisis in Maine by:

1. Allowing funds from property forfeited pursuant to a criminal forfeiture action to be assigned by the court, upon the request of the investigating or prosecuting agency, to a law enforcement agency in this State that provides case management and other social services to persons with substance use disorders;
2. Clarifying that the Class B crimes of aggravated furnishing of scheduled drugs and aggravated trafficking or furnishing of counterfeit drugs are for the death of another person, whose death was caused by drugs furnished by the defendant; and
3. Requiring the Department of Health and Human Services to provide an annual report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the Controlled Substances Prescription Monitoring Program, including the number of prescribers participating and trends in prescription practices.