

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: **H.522/Act 75** Name of Bill: **: An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse**

Agency/Dept: Public Safety Author of Bill Review: Captain JP Sinclair/Paco Aumand

Date of Bill Review: 5/22/2014 Status of Bill: (check one):

☐ Upon Introduction ☐ As passed by 1st body ☒ As passed by both bodies

Analysis of Bill

1. Summary of bill and issue it addresses. Describe what the bill is intended to accomplish and why Act No. 75 (H.522).

An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse

This act provides a comprehensive approach to combating opioid addiction and methamphetamine abuse in Vermont.

Preventing Abuse of Prescription Drugs

The act requires prescriptions for regulated drugs to include the patient's date of birth and to show the quantity of the drug in both numeric and word forms. It prohibits anyone other than a patient or the patient's representative from picking up a prescription for a controlled substance and requires the pharmacist to ask for a signature and photo identification. The act requires the Department of Public Safety (DPS) to adopt standard operating guidelines for law enforcement's access to pharmacy records and directs the Agency of Education and Department of Health to survey middle and high schools to determine the quality and effectiveness of substance abuse prevention education in Vermont schools.

The act provides certain individuals with access to query the Vermont Prescription Monitoring System (VPMS) directly and allows others to receive reports of data available to the Department of Health through the VPMS. The following individuals may query the VPMS directly:

- health care providers, dispensers, and delegates who are registered with the VPMS
- personnel or contractors as needed to maintain the VPMS
- the medical director in the Department of Vermont Health Access
- a medical examiner or delegate from the Chief Medical Examiner's office when investigating a death
- a health care provider or medical examiner from another state, as needed

The Department of Health may provide reports of data available to the Department through the VPMS to the following individuals:

- a patient or the patient's health care provider if the VPMS shows the patient may be getting too much of a regulated drug
- a designated representative of a licensing board for health care providers or dispensers as part of an investigation
- the patient for whom a prescription is written
- a licensing board if the Commissioner of Health reasonably suspects fraudulent or illegal activity by a health care provider
- the Commissioner of DPS, personally, or the Deputy Commissioner of DPS, personally, in certain circumstances and if disclosure is necessary to avert a serious and imminent threat
- the Commissioner of DPS, personally, or the Deputy Commissioner of DPS, personally, if he or she requests data from the Commissioner of Health in certain circumstances and if disclosure is necessary to avert a serious and imminent threat
- a prescription monitoring system or similar entity in another state pursuant to a reciprocal agreement

The act directs the Department of Health to use VPMS data for specified purposes and allows the Department to enter into reciprocal agreements with prescription monitoring programs in other states. It requires health care providers and dispensers who prescribe or dispense controlled substances to register with the VPMS and requires health care providers to query the VPMS in the following circumstances:

- at least annually for patients receiving ongoing treatment with an opioid controlled substance
- when starting a patient on a controlled substance for nonpalliative long-term pain therapy of 90 days or more
- the first time the provider prescribes a controlled substance to treat chronic pain
- prior to writing a replacement prescription for a controlled substance

The act allows the Commissioner of Health to adopt rules to specify additional circumstances in which providers must query the VPMS and directs licensing boards for dispensers to adopt standards for when their licensees must query and report to the VPMS. It reestablishes the VPMS Advisory Committee to evaluate and make recommendations about the VPMS and its data and creates a Unified Pain Management System Advisory Council to advise the Commissioner of Health about the appropriate use of controlled substances in treating chronic pain and addiction and in preventing prescription drug abuse. It also directs the Commissioners of Health and of Public Safety to make recommendations on, and subsequently to

implement and publicize, a voluntary statewide drug disposal program for unused over-the-counter and prescription drugs.

Improving Access to Treatment and Recovery

The act requires the Commissioner of Health to report on opioid addiction treatment programs in Vermont, including their capacity, numbers of people on waiting lists, integration with recovery and counseling programs, and the Department's additional resource needs. It requires the Department of Health to study how Vermont can increase access to opioid treatment, including methadone and suboxone, by establishing a program whereby state-licensed physicians who are affiliated with a licensed opioid maintenance treatment program may provide methadone or suboxone to people who are opioid-dependent and directs the Department to adopt rules establishing such a program. The act also directs the Department of Health to collaborate with various groups to develop guidelines and trainings for hospitals regarding screening for addiction, addiction interventions, referrals to addiction treatment and recovery services for individuals treated at an emergency department, and the identity of addiction treatment and recovery services in hospitals' service areas.

Preventing Deaths from Opioid Overdose

The act requires the Department of Health to report annually regarding the number of people who died during the preceding calendar year from an overdose of a controlled substance. It directs the Department of Health to develop a prevention, intervention, and response strategy to:

- provide free educational materials on opioid overdose prevention
- increase community-based prevention programs that reduce overdose risk factors
- increase timely access to treatment services
- educate providers on ways to prevent opioid overdose
- educate and train individuals living with addiction and participating in treatment programs, syringe exchange programs, residential drug treatment programs, or corrections services on overdose prevention, intervention, and response
- implement and expand hospital referral services
- develop a statewide opioid antagonist pilot program

It allows health care professionals acting in good faith to prescribe, dispense, and distribute an opioid antagonist to a person at risk of experiencing an opioid overdose or a family member, friend, or other person in a position to help such a person, so long as the recipient of the opioid antagonist has completed a prevention and treatment training program approved by the Department of Health. Unless acting recklessly, with gross negligence or intentional misconduct, a health professional who prescribes, dispenses, or distributes an opioid antagonist under this section shall be immune from civil or criminal liability regardless of whether the opioid

antagonist was administered by or to the person for whom it was provided.

The act dictates that, unless acting recklessly, with gross negligence or intentional misconduct, a person who has received an opioid antagonist is free from civil or criminal liability for administering it to a person who he or she believes is experiencing an opioid-related overdose. If medical assistance has not yet been sought, a person shall call emergency services after administering an opioid antagonist.

The act provides civil and criminal liability to a person acting on behalf of a community-based overdose prevention program who:

- provides education on opioid-overdose prevention; or
- possesses, acquires, distributes, or possesses an opioid antagonist

The act requires the Department of Health to establish a three-year statewide opioid antagonist pilot program for the purpose of distributing opioid antagonists to persons at risk of overdose, and to family, friends, and others in a position to help such persons. The Department shall purchase, provide for the distribution of, and monitor opioid antagonists distributed through the pilot program. It shall also report to the General Assembly regarding the cost and effectiveness of the program.

Community Safety

The act prohibits a retail establishment from completing a sale of a drug product or products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that would surpass the maximum limit of 3.6 grams in a 24-hour period or nine grams in a 30-day period. It establishes an electronic registry system for the purpose of recording purchases of products containing ephedrine, pseudoephedrine, or phenylpropanolamine base and blocking sales that exceed the lawful daily and monthly limits. The system has the capacity to block unlawful sales, but the agent of a retail establishment may override the system if the agent has reasonable fear of imminent bodily harm to the agent or others if the transaction is not completed. The act requires that the National Precursor Log Exchange (NPLEx) online portal or its equivalent shall host the State's system. Retail establishments must display signs provided by NPLEx or its equivalent notifying purchasers of products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

- the purchase will result in the purchaser's identity being listed on a national database
- the purchaser has the right to request the transaction number for any purchase denied by the system

The act requires that the agent of a retail establishment selling a product containing ephedrine, pseudoephedrine, or phenylpropanolamine base obtain the purchaser's valid government-issued identification, and record the following:

- name and address of the purchaser
- name and quantity of drug product

- date and time of purchase
- form of identification presented, issuing government entity, and corresponding identification number
- name of agent selling drug product

The act establishes a process for bringing a criminal trespass charge against a person who trespasses on abandoned property. The act defines abandoned property to mean real property which has been continuously unoccupied for 60 days, on which there is a vacant structure, and with respect to which property taxes have been delinquent for six months or more or one or more utility services have been disconnected. A municipality is required to provide the owner with notice and an opportunity to be heard before the property may be declared abandoned.

The act requires the Commissioner of Health to study the effect of methamphetamine production on housing, including approaches for identifying housing that has been contaminated by the production of methamphetamine, approaches for making the housing habitable, and the public health effects of long-term exposure to housing that is contaminated due to the production of methamphetamine, and to report his or her findings to the committees of jurisdiction.

Sales of Secondhand Items and Precious Metals

The act increases the threshold, from \$500.00 to \$2,500.00, at which a secondhand dealer must keep certain records for his or her sales, eliminates “antiques and furniture” from the list of items that trigger the definition of a “secondhand dealer,” and increases the penalties for violating the requirements to keep certain records and to hold a secondhand items for 10 days prior to resale. It directs the Department of Public Safety to conduct an outreach and information campaign to inform the public of the current requirements for buying and selling secondhand items, including used precious metals. It also creates an Interim Study Committee on the Regulation of Precious Metal Dealers. The Committee, comprising members of the General Assembly, and in consultation with law enforcement and businesses in the field, is directed to evaluate a list of articulated matters, including increasing law enforcement and private sector coordination, assessing a possible stolen item database, evaluating appropriate record keeping requirements, and whether to create a licensing system.

Multiple effective dates, beginning June 5, 2013

2. Is there a need for this bill? Please explain why or why not

Yes, there has been a great need for greater regulation and scrutiny of the issues surrounding precious metal dealers and their direct correlation with property crimes from opiate addicted criminals.

3. **What are likely to be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

The direct impact will be on the Department of Health and the Department of Public Safety. The Department of Public Safety will absorb the responsibilities of work with existing staff.

4. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?**

None

5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)**

It would have impact on other law enforcement organizations because it would also allow them the same abilities to curtail the current problems associated with precious metal dealers

6. **Other Stakeholders:**

- 6.1. **Who else is likely to support the proposal and why?**

Many victims of property crimes have sent letters and testified regarding their traumatic experiences in losing family heirlooms to burglaries to then find out they were pawned for a fraction of their value and quickly melted down, making identification impossible. There should also be support from other stakeholders in the effort to curb opiate addiction and the money sources that keep it going.

- 6.2. **Who else is likely to oppose the proposal and why?**

There has been opposition from certain precious metal dealers although there has also been opposing testimony from others as well as the antique dealers.

7. **Rationale for recommendation: Justify recommendation stated above.**

The issues that this bill addresses has been dealt with in surrounding states. They have long ago written strong bills to address the same problems that we are experiencing in Vermont concerning the theft of precious metals and the regulation of those who deal in them. The huge upswing in gold prices saw a spike in places that would buy "scrap" gold and jewelry. There have been many criminal investigations that revealed property victims' jewelry stolen and brought to a precious metals dealer where the criminal would take a couple hundred dollars for an item clearly worth thousands. The jewelry was then quickly sent out of state to large smelting operations. Investigators have experienced great difficulty in being able to have a chance to recover stolen precious metals because of the lack of a holding period and the lack of required documentation at precious metal dealers.

8. **Specific modifications that would be needed to recommend support of this bill: Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended positions.**

The Vermont League of Cities and Towns in conjunction with a meeting with Vermont Police Chiefs drafted a letter to Senator Mullen outlining their thoughts which will be attached to this review in PDF format. The letter outlines proposals to add the theft and sale of portable electronic devices, inclusion of antiques in the definition of precious metals (to address antique coins and antique precious metal items), inclusion of disqualifying offenses occurring prior to January 1, 2015 as a basis for denial or revocation of dealer certification (as stated in the letter, those convicted criminals should not have a "free pass" to operate a precious metals dealership), expansion of the list of disqualifying offenses to include the crime of burglary, lengthening of the 10 day holding period to a 30 day holding period, requirement of a statement of the holding period to be prominently posted in the dealership, requirement of criminal background checks for all dealership employees. They also requested legislative authority for municipalities to adopt ordinances licensing dealers and charge a license fee to suspend or revoke licenses, to impose waiting periods and reporting requirements and to impose enhanced civil and criminal penalties notwithstanding the limitations under 24 VSA 1974. We should support each of the points spelled out by the VLCT. However, despite these comments the bill has been passed and should be enacted into law.

Secretary/Commissioner has reviewed this documents:

A handwritten signature in blue ink, appearing to be "Laura Gray", is written over a horizontal line.

Date: 5/23/2014

Please return this bill review as a Microsoft Word or PDF document to laura.gray@state.vt.us