

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: PCS/CS/SB 1378 (799956)

INTRODUCER: Fiscal Policy Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Health Policy Committee; and Senator Garcia

SUBJECT: Drug Safety

DATE: February 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	Fav/CS
2.	Brown	Pigott	AHS	Recommend: Fav/CS
3.	Pace	Hrdlicka	FP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1378 amends Florida’s Prescription Drug Monitoring Program (PDMP) to require pharmacies to sell prescription lock boxes and to display a sign indicating the boxes are available for sale. The bill authorizes the Department of Health (DOH) to develop and distribute statewide, and on its website, a pamphlet containing specific information regarding controlled substances. The bill also requires pharmacists to distribute the pamphlet, if available at no cost. The bill directs that this act may be cited as “Victoria’s Law.”

The bill has no fiscal impact on state government.

II. Present Situation:

Section 893.055, F.S, creates the PDMP within the DOH and requires the DOH to design and establish a comprehensive electronic database system to collect controlled substance prescription dispensing information, while not infringing upon the legitimate prescribing or dispensing of controlled substances by a prescriber or dispenser acting in good faith and in the course of professional practice.¹

¹ Section 893.055(2)(a), F.S.

The DOH's 2014-2015 PDMP Annual Report shows that Florida experienced a steady rise in oxycodone-caused death rates from 2005 to a peak in 2010.² In 2014, the rate decreased to the lowest since 2006. Recent declines in overdose deaths may be attributed to safer, more effective pain management, changes in state regulatory policies, and promotion of the use of the information maintained in the PDMP.³ “[w]hile Florida has been viewed as the epicenter of the nation’s ‘pill mill’ epidemic, new statistics reflect that the efforts of the [Drug Enforcement Administration] and its federal, state, and local law enforcement partners have made a significant difference in Florida.”⁴ The PDMP, in combination with changes in regulation, has proven effective at reducing opioid use.⁵

In 2010, Massachusetts became the first state to require pharmacies to carry prescription lock boxes. The act requires all pharmacies in Massachusetts that dispense Schedule II, III, IV, or V prescription drugs to sell lock boxes at each pharmacy location.⁶

Florida currently does require pharmacies to sell prescription lock boxes or provide information on prescription drug abuse.

III. Effect of Proposed Changes:

The bill amends s. 893.055, F.S., Florida’s PDMP, to require pharmacies to sell prescription lock boxes. The bill defines “prescription lock boxes” as a box or a bag with a locking mechanism that cannot be tampered with or opened without the application of extreme force. The bill requires pharmacies to display a sign on or near the pharmacy counter stating, “Prescription Lock Boxes for Securing Your Prescription Medications Are Available at This Pharmacy.”

The bill authorizes the DOH to develop and distribute a written pamphlet that contains educational information about the following:

- Precautions regarding the use of pain management prescriptions;
- The potential for misuse and abuse of controlled substances by adults and children;
- The risk of controlled substance dependency and addiction;
- The proper storage and disposal of controlled substances;
- Controlled substance addiction support and treatment resources; and
- Telephone help lines and website links that provide counseling and emergency assistance for individuals dealing with substance abuse.

² DOH, *2014-2015 Prescription Drug Monitoring Program Annual Report*, (December 1, 2015) p. 7, available at: http://www.floridahealth.gov/statistics-and-data/e-force/news-reports/_documents/2015-pdmp-annual-report.pdf (last visited Jan. 28, 2016).

³ Centers for Disease Control and Prevention, *Injury Prevention & Control: Prescription Drug Overdose*, available at: <http://www.cdc.gov/drugoverdose/index.html> (last visited Feb. 24, 2016).

⁴ U.S. Drug Enforcement Administration, Miami News, *Florida Doctors No Longer Among the Top Oxycodone Purchasers in the United States*, (April 5, 2013) available at: <http://www.dea.gov/divisions/mia/2013/mia040513.shtml> (last visited Feb. 24, 2016).

⁵ Rutkow, L., et al., *Effect of Florida’s Prescription Drug Monitoring Program and Pill Mill Laws on Opioid Prescribing and Use*, *JAMA Intern Med.*, 2015;175(10):1642-1649, (October 2015) available at: <http://archinte.jamanetwork.com/article.aspx?articleid=2429105> (last visited Feb. 24, 2016).

⁶ See ch. 283, s. 11(b), Laws of Mass. (2010), *An Act Adding Safeguards to the Prescription Monitoring Program and Furthering Substance Abuse Education and Prevention*, available at: <https://malegislature.gov/Laws/SessionLaws/Acts/2010/Chapter283> (last visited Feb. 24, 2016).

If the DOH develops a written pamphlet, then it must distribute copies of the pamphlet to pharmacies throughout the state and make the contents of the pamphlet available in electronic form on its website. If copies of the pamphlet are provided by the DOH, a pharmacist must distribute this pamphlet to consumers when dispensing a prescription or controlled substance and must offer them to consumers in a display. Pharmacies may not charge for the pamphlets.

The bill directs that the act may be cited as “Victoria’s Law.”

The bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires pharmacies to stock prescription lock boxes, increasing their costs to inventory the boxes. If the written pamphlets are provided by the DOH, the bill requires a pharmacist, not a non-pharmacist employee of the pharmacy, to distribute the pamphlet to a consumer each time any prescription is dispensed, thereby increasing the pharmacist’s workload.

C. Government Sector Impact:

Since the bill authorizes, but does not require, the DOH to develop the written pamphlet, the bill has no direct fiscal impact. The cost of developing and distributing the pamphlet statewide would be significant, and the DOH would presumably need a legislative appropriation before doing so.

VI. Technical Deficiencies:

The bill defines a “prescription lock box” as a box or a bag with a locking mechanism that cannot be tampered with or opened without the application of extreme force. The intent of the bill relating to “extreme force” is unclear. “Extreme force” is not defined, and the bill seems to indicate that opening the box should require the application of extreme force under any circumstances, regardless of who is seeking access.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 893.055 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by the Appropriations Subcommittee on Health and Human Services on February 24, 2016:

The CS authorizes, rather than requires, the DOH to develop a written pamphlet to be made available in pharmacies statewide and requires pharmacists to distribute the pamphlets only if they are made available by the DOH.

CS by Health Policy on February 1, 2016

The CS directs that the act may be cited as “Victoria’s Law.” All other provisions remain unchanged.

- B. **Amendments:**

None.