

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: SB 1658

INTRODUCER: Senator Simpson

SUBJECT: Statewide Task Force on Opioid Drug Abuse

DATE: April 3, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	<u>Favorable</u>
2.	<u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1658 creates section 381.888, Florida Statutes, to establish the Statewide Task Force on Opioid Drug Abuse (task force) as an adjunct to the Department of Legal Affairs (DLA) for the purpose of researching opioid drug abuse; evaluating effective strategies for education, interdiction, arrest, prosecution, treatment, and prevention; and providing policy recommendations to the Legislature. The bill specifies the membership of the task force and requires the task force to meet at an organizational session by July 15, 2019, and at least four times annually thereafter. The bill enumerates specific duties of the task force related to its purpose, allows the task force to break into subcommittees that must report to the task force as a whole, and requires the task force to submit interim reports to the Legislature by December 1, 2020, and January 15, 2021, and a final report by December 1, 2022.

The DLA may have an indeterminate fiscal impact related to providing staff necessary to assist in the performance of its duties. Additionally, members are entitled to receive reimbursement for per diem and travel expenses pursuant to section 112.061, Florida Statutes.

The bill's provisions take effect upon becoming law.

II. Present Situation:

Opioid Abuse

Both nationally and in Florida, opioid addiction and abuse has become an epidemic. The Florida Department of Law Enforcement (FDLE) reported that, when compared to 2016, 2017 saw:

- 6,178 (8 percent more) opioid-related deaths;

- 6,932 (4 percent more) individuals died with one or more prescription drugs in their system;¹
- 3,684 (4 percent more) individuals died with at least one prescription drug in their system that was identified as the cause of death;
- Occurrences of heroin increased by 3 percent and deaths caused by heroin increased by 1 percent;
- Occurrences of fentanyl increased by 27 percent and deaths caused by fentanyl increased by 25 percent;
- Occurrences hydrocodone increased by 6 percent while deaths caused by hydrocodone decreased by 8 percent; and
- Occurrences of buprenorphine and deaths caused by buprenorphine increased by 19 percent.²

The federal Centers for Disease Control and Prevention (CDC) estimates that the nationwide cost of opioid misuse at \$78.5 billion per year.³

History of the Opioid Crisis in Florida

In the late 1990s, pharmaceutical companies reassured the medical community that patients would not become addicted to prescription opioid pain relievers, and health care providers began to prescribe them at greater rates. This subsequently led to widespread diversion and misuse of these medications before it became clear that these medications could indeed be highly addictive.⁴ Between the early 2000s and the early 2010s, Florida was infamous as the “pill mill capital” of the country. At the peak of the pill mill crisis, doctors in Florida bought 89 percent of all the oxycodone sold in the county.⁵

Between 2009 and 2011, the Legislature enacted a series of reforms to combat prescription drug abuse. These reforms included strict regulation of pain management clinics; creating the Prescription Drug Monitoring Program (PDMP); and stricter regulation on selling, distributing, and dispensing controlled substances.⁶ Between 2010 and 2014, deaths from prescription drugs dropped but deaths from illegal opioids, such as heroin, began to rise.⁷

In 2016, the opioid prescription rate was 75 per 100 persons in Florida. This rate was down from a high of 83 per 100. Drug overdose is now the leading cause of non-injury related death in the United States. Since 2000, drug overdose death rates increased by 137 percent, including a 200 percent increase in the rate of overdose deaths involving opioids. In 2015, over 52,000 deaths in the U.S. were attributed to drug poisoning, and over 33,000 (63 percent) involved an opioid. In 2015, 3,535 deaths occurred in Florida where at least one drug was identified as the

¹ The drugs were identified as either the cause of death or merely present in the decedent. These drugs may have also been mixed with illicit drugs and/or alcohol. These drugs were not necessarily opioids.

² FDLE, *Drugs Identified in Deceased Persons by Florida Medical Examiners 2017 Annual Report* (Nov. 2018) <http://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2017-Annual-Drug-Report.aspx> (last visited on April 1, 2019).

³ National Institute on Drug Abuse, *Opioid Overdose Crisis* (Jan. 2018) <https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis> (last visited on April 1, 2019).

⁴ Id.

⁵ Lizette Alvarez, *Florida Shutting ‘Pill Mill’ Clinics*, THE NEW YORK TIMES (Aug. 31, 2011), available at <http://www.nytimes.com/2011/09/01/us/01drugs.html> (last visited on April 1, 2019).

⁶ See chs. 2009-198, 2010-211, and 2011-141, Laws of Fla.

⁷ Supra note 3

cause of death. More specifically, 2,535 deaths were caused by at least one opioid in 2015. Stated differently, seven lives per day were lost to opioids in Florida in 2015. Overall the state had a rate of opioid-caused deaths of 13 per 100,000. The three counties with the highest opioid death rate were Manatee County (37 per 100,000), Dixie County (30 per 100,000), and Palm Beach County (22 per 100,000).⁸

Early in 2017, the CDC declared the opioid crisis an epidemic and shortly thereafter, on May 3, 2017, Governor Rick Scott signed executive order 17-146 declaring the opioid epidemic a public health emergency in Florida.

House Bill 21

In 2018, the Florida Legislature passed HB 21 (ch. 2018-13, L.O.F.) to combat the opioid crisis. HB 21:

- Required additional training for practitioners on the safe and effective prescribing of controlled substances;
- Restricted the length of prescriptions for Schedule II opioid medications to 3 days or up to 7 days if medically necessary;
- Reworked the PDMP statute to require that prescribing practitioners check the PDMP prior to prescribing a controlled substance and to allow the integration of PDMP data with electronic health records and the sharing of PDMP data between Florida and other states; and
- Provided for additional funding for treatment and other issues related to opioid abuse.

The Attorney General's Opioid Working Group

In 2019, Florida Attorney General Ashley Moody convened an opioid working group with the primary goal of developing an overview of current programs and providing a practical set of recommendations for the Attorney General to combat the opioid crisis and addiction to opioids throughout the State of Florida.⁹ The working group published its findings on March 1, 2019, and concluded that Florida should combat this epidemic with a three-pronged approach to include prevention, enforcement, and treatment, with education being a crucial element of each prong.¹⁰

III. Effect of Proposed Changes:

This bill creates s. 381.888, F.S., to establish the Statewide Task Force on Opioid Drug Abuse as an adjunct to the Department of Legal Affairs (DLA). The bill states the purpose of the task force is researching opioid drug abuse, evaluating effective strategies for education, interdiction, arrest, prosecution, treatment and prevention, and providing policy recommendations to the Legislature.

The membership of the task force is established as follows:

⁸ Attorney General's Opioid Working Group, *Florida's Opioid Epidemic: Recommendations and Best Practices* (March 1, 2019), available at [https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/\\$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf](https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf), (last visited on April 1, 2019).

⁹ Id.

¹⁰ For detailed findings, please see [https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/\\$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf](https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf), (last visited on April 1, 2019).

- One representative appointed by the Attorney General, to serve as chair.
- One representative appointed by the Surgeon General, to serve as vice chair.
- One representative appointed by the Commissioner of Education.
- One representative appointed by the Commissioner of the Florida Department of Law Enforcement.
- One representative appointed by the Secretary of Children and Family Services.
- One representative appointed by the Secretary of Health Care Administration.
- One representative appointed by the Secretary of Corrections.
- One representative appointed by the Secretary of Juvenile Justice.
- One representative appointed by the President of the Senate.
- One representative appointed by the Speaker of the House of Representatives.
- Two sheriffs appointed by the Attorney General.
- Two police chiefs appointed by the Attorney General.
- Two state attorneys appointed by the Attorney General.
- Two public defenders appointed by the Attorney General.
- One representative appointed by the State Courts Administrator.
- Three representatives from addiction and recovery associations appointed by the Attorney General, each from different geographic areas of the state.
- One representative of the Florida Medical Association.
- One representative of the Florida Pharmacy Association.
- One representative of the insurance industry appointed by the Insurance Commissioner.

The bill specifies that members of the task force are entitled to receive per diem and travel expenses, and the DLA is required to provide the task force with staff necessary to assist the task force in the performance of its duties.

The task force must hold an organizational session by July 15, 2019, and meet at least four times per year thereafter. The chair of the task force may add additional meetings if extraordinary circumstances require. Additionally, the task force may break into subcommittees at the direction of the chair. Each subcommittee must present its findings to the task force as a whole.

The task force must submit interim reports to the Legislature by December 1, 2020, and January 15, 2021. The task force must submit its final report to the Legislature by December 1, 2022.

The bill requires the task force to do all of the following:

- Collect and organize data concerning:
 - The nature and extent of opioid drug abuse in this state, including, but not limited to, the overdose death rate, neonatal abstinence syndrome statistics, the Florida Youth Substance Abuse Survey, Automated Reports and Consolidated Ordering System data, and United States Drug Enforcement Administration seizure data for opioids, including fentanyl and synthetic fentanyl.
 - The current costs to state and local governments associated with the interdiction, prosecution, incarceration, education, monitoring, and treatment of opioid abuse and misuse in this state.
- Identify:

- Available federal, state, and local programs that provide services to combat opioid drug abuse.
- Whether there is any need for additional regulatory activity, including scheduling or emergency scheduling, of synthetic opioid derivatives including synthetic fentanyl derivatives.
- Identify and evaluate:
 - Best practices for the treatment of opioid drug abuse.
 - The sources of opioids being abused and misused and causes of opioid drug abuse.
 - Ways to reduce the demand for opioids, including, but not limited to, alternative pain management that does not involve the use of opioids.
 - Ways to reduce the availability of opioids to opioid drug abusers, including increased monitoring, expanded interdiction, and cooperation among law enforcement agencies at all levels.
 - Training and resources needed by law enforcement officers to deal with users and addicts of opioid drugs.
 - Best practices for law enforcement encounters with arrestees and others suffering from opioid addiction.
 - Best practices for treating arrestees in custody suffering from opioid addiction.
 - Alternatives to conviction or incarceration for arrestees suffering from opioid addiction.
 - Programs and protocols for consideration and use with inmates suffering from opioid addiction.
 - Programs for dealing with minors suffering from opioid drug abuse and addiction.
 - Educational programs for children, young adults, and adults on the dangers of opioid abuse and misuse.
- Evaluate methods to increase public awareness of the dangers of opioid abuse and misuse.
- Develop a list of projects and priorities to be funded by the Legislature or from other sources, including the proceeds arising from any judgments or settlements with opioid manufacturers, distributors, or others related to opioid drug abuse.

The provisions of the bill are effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 1658 may have an indeterminate fiscal impact on the DLA related to providing staff necessary to assist the task force in the performance of its duties. Additionally, although the bill specifies members are entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061, F.S., it is unclear if the funds to pay these costs are to come from the organization or agency the member represents or another entity.

VI. Technical Deficiencies:

The bill provides for the appointment of task force members by specified government officials.

The bill also provides for one member of the task force to be appointed by the State Courts Administrator (Lines 56-57 of the bill). Typically, appointments to a task force or commission on behalf of the judicial branch are made by the Chief Justice of the Supreme Court, as opposed to the State Courts Administrator.

Another appointment to the task force created by the bill is to be made by the Insurance Commissioner (lines 63-64 of the bill). Florida no longer has an Insurance Commissioner; that function is performed by the director of the Office of Insurance Regulation.

VII. Related Issues:

The bill requires the task force to submit interim reports on December 1, 2020, and January 15, 2021, and a final report December 1, 2022. Since these dates are only 45 days apart, it is unclear whether the task force will be able to provide any new information in the second required interim report. It may be advisable to increase the time between the first and second interim reports.

The Florida Department of Law Enforcement has respectfully recommended a comprehensive review of the Drug Policy Advisory Council (DPAC), as specified in s. 397.333, F.S., to address any duplication of efforts. Although not focused exclusively on opioid drug abuse, the council, which is housed within the Department of Health, has a similar structure and has similar requirements as the proposed task force.¹¹

¹¹ The DLE, SB 1658 Agency Analysis, p. 4-5.

VIII. Statutes Affected:

This bill creates section 381.888 of the Florida Statutes.

IX. Additional Information:

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

None.

B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
