

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 Appropriations

BILL: PCS/SB 592 (300818)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Albritton

SUBJECT: Prescription Drug Monitoring Program

DATE: March 26, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	<u>Favorable</u>
2.	<u>Loe</u>	<u>Kidd</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3.	<u>Loe</u>	<u>Kynoch</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 592 amends section 893.055, Florida Statutes, to exempt prescribers and dispensers from the requirement to check the prescription drug monitoring program (PDMP) database before prescribing or dispensing controlled substances to a patient for the alleviation of pain related to a terminal condition.

The bill has no impact on state revenues or expenditures.

The bill is effective July 1, 2019.

II. Present Situation:

Florida's Prescription Drug Monitoring Program (PDMP)

Chapter 2009-197, L.O.F., established the PDMP in s. 893.055, F.S. The PDMP uses a comprehensive electronic database to monitor the prescribing and dispensing of certain controlled substances.¹ The PDMP became operational on September 1, 2011, when it began

¹ Section 893.055(2)(a), F.S.

receiving prescription data from pharmacies and dispensing practitioners.² Health care practitioners began accessing the PDMP on October 17, 2011.³

Section 893.055, F.S., requires a dispensing practitioner to report specified information⁴ by the close of the next business day for each controlled substance⁵ dispensed to a patient in Florida. All acts of administration, the dispensing of a controlled substance to a person under the age of 16, and the dispensing of a controlled substance in a health care system of the Department of Corrections are exempt from the requirement to report. During the 2017-2018 reporting period, there were approximately 33 million controlled substances prescribed to Florida patients. This is a decline of 4.64 percent over the previous reporting period.⁶

Prior to the enactment of HB 21⁷ in 2018, a dispensing or prescribing health care practitioner was authorized, but not required, to check the PDMP prior to dispensing or prescribing a controlled substance. HB 21 created a new requirement that all prescribing⁸ and dispensing⁹ practitioners, or a designee of the prescriber or dispenser, must consult the PDMP to review a patient's controlled substance dispensing history before prescribing or dispensing a controlled substance to the patient. This requirement does not apply when prescribing or dispensing to a patient under the age of 16, when prescribing or dispensing a non-opioid Schedule V controlled substance, or when the PDMP is not operational or cannot be accessed due to a technological or electrical failure. Between 2017 and 2018, the number of PDMP queries by health care practitioners increased by 26.6 percent – from approximately 35.8 million to approximately 45 million.¹⁰

III. Effect of Proposed Changes:

Section 1 amends s. 893.055, F.S., to exempt prescribers and dispensers from the requirement to check the prescription drug monitoring program (PDMP) database before prescribing or dispensing a controlled substance to a patient for the alleviation of pain related to a terminal condition.

Section 2 provides an effective date of July 1, 2019.

² Florida Dept. of Health, *2012-2013 Prescription Drug Monitoring Program Annual Report* (Dec. 1, 2013), available at <http://www.floridahealth.gov/reports-and-data/e-forcse/news-reports/documents/2012-2013pdmp-annual-report.pdf> (last visited on Jan. 7, 2018).

³ *Id.*

⁴ For the information required to be reported, *see* s. 893.055(3)(a)1.-8., F.S.

⁵ Section 893.055, F.S., defines “controlled substance” as “a controlled substance listed in Schedule II, Schedule III, Schedule IV, or Schedule V of s. 893.03 or 21 U.S.C. s. 812.” Prior to the passage of HB 21 in 2018, controlled substances listed in Schedule V were exempt from reporting. *See* ch. 2018-13, Laws of Fla.

⁶ Florida Dept. of Health, *2017-2018 Prescription Drug Monitoring Program Annual Report* (Dec. 1, 2018), available at http://www.floridahealth.gov/statistics-and-data/e-forcse/health_care_practitioners/documents/2018-pdmp-annual-report.pdf (last visited on Feb. 13, 2018).

⁷ Chapter 2018-13, Laws of Fla.

⁸ “Prescriber” means a prescribing physician, prescribing practitioner, or other prescribing health care practitioner authorized by the laws of this state to order controlled substances. (*see* s. 893.055(j), F.S.)

⁹ “Dispenser” means a dispensing health care practitioner, pharmacy, or pharmacist licensed to dispense controlled substances in or into this state. (*see* s. 893.055(e), F.S.)

¹⁰ *Supra* note 7

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:

PCS/SB 592 may have a positive fiscal impact, accompanied by a reduction in workload, for health care providers who treat terminally ill patients since these practitioners will no longer be required to check the PDMP for their patients.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures.

VI. Technical Deficiencies:

None.

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 by Appropriations Subcommittee on Health and Human Services on March 6, 2019:

The committee substitute removes the exemption for the requirement for prescribers and dispensers to check the prescription drug monitoring program database before prescribing or dispensing a controlled substance to a patient receiving palliative care for the relief of symptoms related to an incurable, progressive illness or injury.

- B. **Amendments:**

None.