



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5649 (Substitute S-2 as reported)
House Bill 5650 (Substitute S-2 as reported)
Sponsor: Representative Al Pscholka (H.B. 5649)
Representative Sam Singh (H.B. 5650)
House Committee: Criminal Justice
Senate Committee: Judiciary

CONTENT

The bills would amend the Public Health Code to do the following:

- Exempt a person from prohibitions against possessing or using a controlled substance or controlled substance analogue, if he or she sought medical assistance or accompanied another person who sought assistance for a drug overdose or other perceived medical emergency arising from drug use.
- Revise the definition of "seeks medical assistance".

Currently, an individual under 21 years of age is not in violation of the Code's prohibitions against possession or use of certain controlled substances if the individual seeks medical assistance for himself or herself, or requires medical assistance and is presented for assistance by another person if the individual is incapacitated, because of drug overdose or other perceived medical emergency. The possession and use prohibitions also do not apply to an individual under 21 who, in good faith, attempts to procure medical assistance for another person or who accompanies another person who requires medical assistance for a drug overdose or other perceived medical emergency. The exemptions apply to an incident arising from the use of a prescription drug that is a controlled substance or controlled substance analogue that the person possesses or possessed in an amount sufficient only for personal use and if evidence of the violation is obtained as a result of the individual's seeking or being presented for medical assistance, attempting to procure medical assistance for another, or accompanying another person who requires medical assistance to a health facility or agency, as applicable.

Under House Bills 5649 (S-2) and 5650 (S-2), the exemptions for drug possession or drug use, respectively, would apply to a person of any age, and would apply to possession of any controlled substance or controlled substance analogue (rather than a prescription drug that is a controlled substance or controlled substance analogue).

- Currently, "seeks medical assistance" includes, but is not limited to, reporting a drug overdose or other medical emergency to law enforcement, the 9-1-1 system, a poison control center, or a medical provider, or assisting someone in reporting a drug overdose or other medical emergency. Under the bills, "seeks medical assistance" would mean, rather than include but be not limited to, that reporting or assisting.

The bills also would extend the misdemeanor penalty for possession or use of marijuana to the possession or use of synthetic equivalents of the substances contained in cannabis or in the resinous extractives of cannabis and synthetic substances, derivatives, and their isomers with similar chemical structure and/or pharmacological activity. (Marijuana possession is

punishable by up to one year's imprisonment and/or a maximum fine of \$2,000. Use of marihuana is punishable by up to 90 days' imprisonment and/or a maximum fine of \$100.)

MCL 333.7403 (H.B. 5649)
333.7404 (H.B. 5650)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have a positive fiscal impact on State and local government, although the magnitude of the impact would depend on the number of people who would no longer be charged. A decrease in misdemeanor and felony arrests could reduce resource demands on law enforcement, court systems, community supervision, and jails and prisons. For any decrease in prison intakes, in the short term, the marginal savings to State government would be approximately \$3,764 per prisoner per year. In the long term, if the reduced intake of prisoners reduced the total prisoner population enough to allow the Department of Corrections to close a housing unit or an entire facility, the marginal savings to State government would be approximately \$34,550 per prisoner per year. Any associated decrease in fine revenue would reduce revenue to public libraries.

Date Completed: 7-21-16

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.