



Senate Fiscal Agency
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BILL ANALYSIS



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House Bills 5649 and 5650 (as passed by the House)
Sponsor: Representative Al Pscholka (H.B. 5649)
Representative Sam Singh (H.B. 5650)
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 6-29-16

CONTENT

The bills would amend the Public Health Code to 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. Currently, the Code makes exemptions under these circumstances if the person is under 21 years of age and the drug is a prescription drug.

The Code prohibits a person from knowingly or intentionally possessing a controlled substance or controlled substance analogue unless it was obtained pursuant to a valid prescription or order of a medical practitioner. The Code also prohibits a person from using a controlled substance or controlled substance analogue unless it was obtained pursuant to a valid prescription or order. The penalties for violations vary depending on the substance possessed or used and, in the case of possession, the amount of certain substances.

A person under 21 years of age is not in violation of the possession or use prohibition if he or she seeks medical assistance for himself or herself, or requires medical assistance and is presented for assistance by another person if he or she is incapacitated, because of drug overdose or other perceived medical emergency. The Code's 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 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.

(These exemptions were enacted by Public Act 220 of 2015, which took effect on March 15, 2016.)

Under House Bill 5649, the exemption for drug possession would apply to a person of any age, and would include possession of any controlled substance or controlled substance analogue.

Under House Bill 5650, the exemption for drug use would apply to a person of any age, and would include use of any controlled substance or controlled substance analogue.

(The Code defines "drug overdose" as a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, that is the result of consumption or use of a controlled substance or a controlled substance analogue or a substance with which the controlled substance or controlled substance analogue was combined, or that a layperson would reasonably believe to be a drug overdose that requires medical assistance.

"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.)

The bills are tie-barred and each would take effect 90 days after its enactment.

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.

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.