

STATE OF NEW YORK

5128--B

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2021-2022 Regular Sessions

IN SENATE

February 24, 2021

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Alcoholism and Substance Abuse -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Alcoholism and Substance Abuse in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law, in relation to enacting the model overdose mapping and response act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "model overdose mapping and response act".
3 § 2. Legislative findings and purpose. The legislature finds that
4 substance use disorder and drug overdose is a major health problem that
5 affects the lives of many people, multiple service systems, and leads
6 to profound consequences including permanent injury or death. Accidental
7 overdoses caused by heroin, fentanyl, other opiates, stimulants,
8 controlled substance analogs, novel psychoactive substances, and other
9 legal or illegal drugs are a national security crisis that stress and
10 strain the financial, public health, health care, and public safety
11 resources in New York state. This impact is because there are few
12 central databases that can quickly help identify this problem and limit-
13 ed funding for support to mitigate the crisis and risks statewide. There
14 is a need for collaboration among local, regional, and state agencies,
15 service systems, program offices within New York state, and other part-
16 ners such as federal agencies to establish a comprehensive system
17 addressing the problems associated with overdoses and to reduce duplica-
18 tive requirements across local, county, state, public safety, and health
19 care agencies. Formalized collaboration allows these entities to

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 combine their numerous resources and strengths, thus reducing insular
2 decision-making. Contemporaneous data collection about, and public
3 surveillance of, confirmed or suspected overdoses with New York state
4 will allow state and local agencies to focus on specific areas where the
5 following are needed most in order to maximize resources: (1) inter-
6 ventions to reduce supply; (2) public education about substance misuse;
7 (3) treatment and other health care options to reduce demand; and (4)
8 implementation of risk reduction strategies.

9 The legislature's purpose in enacting this act is to: (1) provide near
10 real-time drug overdose surveillance of confirmed or suspected overdoses
11 occurring within New York state, using a specialized program to collect
12 information about overdose incidents that supports public safety and
13 public health efforts to mobilize an immediate response to a sudden
14 increase in overdoses; (2) provide a centralized resource that can
15 collect information about overdose incidents and make the data available
16 to the health care community, public safety agencies, and municipal,
17 county and state agencies to quickly identify needs and provide short
18 and long-term solutions while protecting and respecting the privacy
19 rights of individuals; (3) discourage substance misuse and accidental
20 overdoses by quickly identifying the areas in New York state where over-
21 doses pose the highest risk to the community; (4) enable local,
22 regional, and state agencies, service systems, and program offices to
23 develop effective strategies for addressing confirmed or suspected over-
24 doses occurring within their jurisdictions and implement interventional
25 strategies; and (5) encourage formal collaborative agreements among
26 local, regional, and state agencies, service systems, and program
27 offices that enhance present and future work pertaining to the various
28 health care and public safety aspects of this crisis, including
29 substance use disorders, co-occurring disorders, unemployment, homeless-
30 ness, drug supply chains, and other health care and public safety
31 issues.

32 By way of this act, the legislature intends to maximize the efficiency
33 of financial, public education, public health, health professional, and
34 public safety resources so that these resources are concentrated on the
35 most needy and at-risk areas and groups in New York state.

36 § 3. The public health law is amended by adding a new section 3309-b
37 to read as follows:

38 § 3309-b. Model overdose mapping and response system. 1. Definitions.
39 For the purposes of this section, unless the context clearly indicates
40 otherwise, the following words and phrases shall have the following
41 meanings:

42 (a) "Application programming interface" or "API" means a set of tools,
43 definitions, and protocols for building and integrating application
44 software and services with different software programs.

45 (b) "Coroner" means the elected or appointed officer in each county of
46 the state whose responsibility is to investigate the cause of death in
47 cases.

48 (c) "Emergency department personnel" means paid or volunteer health
49 care professionals licensed by the state who work in an emergency
50 department, including but not limited to physicians, nurses and medical
51 assistants.

52 (d) "Information technology platform" means the Washington/Baltimore
53 High Intensity Drug Trafficking Areas' Overdose Detection Mapping Appli-
54 cation Program (ODMAP), which has the ability to:

55 (i) allow secure access to the system by authorized users to report
56 information about an overdose incident required by this section;

1 (ii) allow secure access to the system by authorized users to view, in
2 near real-time, certain information about overdose incidents reported
3 pursuant to this section;

4 (iii) produce a map in near real-time of the approximate locations of
5 confirmed or suspected overdose incidents reported pursuant to this
6 section;

7 (iv) interface with other information systems and applications via an
8 API; and

9 (v) enable access to overdose incident information that assists in
10 state and local decisions regarding the allocation of public health,
11 public safety, and educational resources.

12 (e) "Law enforcement officer" means a paid or volunteer employee of a
13 police department or sheriff's office, which is a part of, or adminis-
14 tered by, the state or any political subdivision thereof, or any full-
15 time or part-time employee of a private police department, and who is
16 responsible for the prevention and detection of crime and the enforce-
17 ment of the penal law, vehicle and traffic law, or highway laws of the
18 state.

19 (f) "Medical examiner" means an individual appointed pursuant to
20 section four hundred of the county law to perform death investigations
21 and to establish the cause and manner of death, and includes any person
22 designated by such person to perform duties required by law.

23 (g) "Overdose" means injury to the body that happens when one or more
24 substances are taken in excessive amounts. An overdose can be fatal or
25 nonfatal.

26 (h) "Overdose incident" means an occurrence where a law enforcement
27 officer, person who administers emergency medical services, coroner, or
28 medical examiner encounters a person experiencing, or who recently expe-
29 rienced, a confirmed or suspected overdose.

30 (i) "Overdose reversal drug" means naloxone hydrochloride or other
31 similarly acting drug that is approved by the federal Food and Drug
32 Administration for the emergency treatment of an overdose.

33 (j) "Overdose spike" means the occurrence of a significant increase in
34 the number of confirmed or suspected overdoses in a certain timeframe
35 that triggers the overdose spike response plan within a specific
36 geographic area.

37 (k) "Overdose spike response plan" means a compilation of recommenda-
38 tions for coordinated responses to overdose spikes identified through
39 the use of the information technology platform.

40 (l) "Person who administers emergency services" means a paid or volun-
41 teer professional, other than a law enforcement officer, who is trained
42 and licensed in the state to provide emergency services to the public,
43 including but not limited to a firefighter, emergency medical techni-
44 cian, emergency medical responder, paramedic, and emergency department
45 personnel.

46 2. Establishment of the overdose mapping and response system. (a) The
47 department is hereby directed to:

48 (i) ascertain and document the number, trends, patterns, and risk
49 factors associated with known and suspected overdoses in the state, both
50 fatal and nonfatal; and

51 (ii) develop strategies for public health and public safety inter-
52 ventions that may be effective in reducing the rate of fatal or nonfatal
53 overdoses.

54 (b) In furtherance of the directive in paragraph (a) of this subdivi-
55 sion, no later than one year after the effective date of this section,
56 the department shall develop an overdose mapping and response system in

1 which a central repository containing information about overdose inci-
2 idents is established and maintained using the information technology
3 platform.

4 (c) No later than two years after the effective date of this section,
5 the overdose mapping and response system shall capture information about
6 all overdose incidents in at least eighty percent of the counties in the
7 state.

8 (d) The overdose mapping and response system shall be designed to
9 avoid data entry duplication wherever possible, which may include using
10 one or more APIs to transfer information about overdose incidents that
11 are currently reported to active databases existing in the state to the
12 information technology platform.

13 (e) A law enforcement officer who goes to an overdose incident shall
14 report information about such overdose incident to the information tech-
15 nology platform, as directed by paragraph (h) of this subdivision, as
16 soon as possible but no later than twenty-four hours after the overdose
17 incident, to the extent that such information is known.

18 (f) A person who administers emergency services who goes to an over-
19 dose incident, or who transports a person experiencing a confirmed or
20 suspected overdose to a medical facility, shall report information about
21 such overdose incident to the information technology platform, as
22 directed by paragraph (h) of this subdivision, as soon as possible but
23 no later than twenty-four hours after the overdose incident, to the
24 extent that such information is known.

25 (g) When a coroner or medical examiner determines that the death of a
26 person was caused by an overdose, the coroner or medical examiner shall
27 report information about such overdose incident to the information tech-
28 nology platform, as directed by paragraph (h) of this subdivision, as
29 soon as possible but no later than twenty-four hours after the overdose
30 incident, to the extent that such information is known.

31 (h) The following information about an overdose incident shall be
32 reported by the individuals identified in paragraphs (e), (f) and (g) of
33 this subdivision using the information technology platform:

34 (i) the date and time of the overdose incident;

35 (ii) the location of the overdose incident;

36 (iii) whether an overdose reversal drug was administered, and if so,
37 the number of doses and the type of delivery;

38 (iv) whether the confirmed or suspected overdose was fatal or
39 nonfatal;

40 (v) the gender and approximate age of the person suffering the over-
41 dose incident; and

42 (vi) the suspected substance involved.

43 (i) A person's or entity's report of information about an overdose
44 incident pursuant to this section shall not preempt or replace any other
45 reporting requirement applicable to such person or entity.

46 (j) During the course of implementing the overdose mapping and
47 response system, the department:

48 (i) shall consult with all affected entities, including but not limit-
49 ed to, law enforcement agencies, health care providers, emergency
50 management, emergency service providers, public health agencies, coron-
51 ers and medical examiners, tribal authorities, state drug court judges,
52 and federal and state prosecutors;

53 (ii) shall enter into, or direct other state, county or local entities
54 to enter into, all participation agreements, data sharing agreements,
55 and other memoranda of understanding necessary to fully implement the
56 overdose mapping and response system; and

1 (iii) may promulgate rules, regulations, or standard operating proce-
2 dures necessary to carry out the requirements of this section.

3 (k) Persons or entities reporting information about an overdose inci-
4 dent pursuant to this section in good faith shall not be subject to
5 civil or criminal liability or damages for making the report, unless
6 their acts or omissions constitute willful and wanton misconduct.

7 (l) The failure of a person identified in paragraph (e), (f) or (g) of
8 this subdivision to report information about an overdose incident as
9 required by this section constitutes a form of unprofessional conduct,
10 and the department may refer matters of non-compliance to the appropri-
11 ate licensing board for investigation.

12 (m) The department shall report to the legislature regarding the
13 status of overdose mapping and response system implementation at six
14 months, eighteen months, and thirty months after the effective date of
15 this section. The report at thirty months shall not be required if
16 statewide adoption, as referenced in paragraph (c) of this subdivision,
17 is attained prior to the eighteen-month report.

18 3. Using the overdose mapping and response system. (a) The information
19 about overdose incidents reported pursuant to this section shall be
20 available to users of the information technology platform authorized to
21 view the data in real time. The process by which such authorized users
22 are decided upon and designated shall be addressed in one or more of the
23 participation agreements, data sharing agreements, and memoranda of
24 understanding executed when implementing the overdose mapping and
25 response system.

26 (b) Within one year of the enactment of this section, the department,
27 in conjunction with state and local law enforcement agencies and local
28 public health departments, shall:

29 (i) identify parameters for identifying an overdose spike through the
30 state; and

31 (ii) create overdose spike response plans that coordinate the response
32 of public health, public safety, emergency management, first responders,
33 community organizations, health care providers, and the media with the
34 goal of preventing and reducing the harm caused by overdose spikes.

35 (c) Within one year of the effective date of this section, and each
36 year thereafter, the department shall prepare a comprehensive report
37 regarding the overdose mapping and response system established pursuant
38 to this section that is delivered to or immediately accessible by:

39 (i) the legislature;

40 (ii) state, county, and local departments of health;

41 (iii) the office of addiction services and supports;

42 (iv) the office of children and family services; and

43 (v) any other state or local agency designated by law or regulation.

44 (d) Each report required under paragraph (c) of this subdivision shall
45 contain, at a minimum, the following information:

46 (i) the number of overdose incidents reported and the approximate
47 locations where the overdose incidents occurred, including any clusters
48 of overdose incidents;

49 (ii) the entities reporting, or who employed persons reporting, infor-
50 mation about overdose incidents;

51 (iii) the percentage of overdose incidents involving fatal versus
52 nonfatal overdoses; and

53 (iv) how the reported information about overdose incidents was used
54 for public health and public safety responses, the outcomes of such
55 responses, and the impact on affected communities.

1 (e) In addition to using the overdose mapping and response system as
2 required in paragraphs (b), (c) and (d) of this subdivision, the depart-
3 ment may use such system to:

4 (i) establish public safety, public health, and behavioral health
5 partnerships within the state;

6 (ii) assist local communities to identify additional ways to use
7 information about overdose incidents to deploy public health, behavioral
8 health, and public safety interventions to address specific geographic
9 areas or high-risk individuals;

10 (iii) assist in the distribution of overdose reversal drugs throughout
11 the state; and

12 (iv) assist in implementing strategies to reduce drug supply and
13 demand, especially in high-risk areas and where there are high volumes
14 of elevated risk populations.

15 4. Limitations on data use. (a) Information about overdose incidents
16 reported to the overdose mapping and response system by a person or
17 entity other than a law enforcement officer shall not be subject to
18 criminal investigation.

19 (b) Information about overdose incidents reported to, and accessible
20 through, the overdose mapping and response system shall at all times
21 remain confidential pursuant to all applicable federal, state, and local
22 laws and regulations pertaining to the collection, storage, and dissem-
23 ination of protected health information and controlled unclassified
24 information.

25 5. Financial considerations. (a) Moneys shall be allocated for the
26 purpose of funding, in whole or in part, the initial start-up and ongo-
27 ing activities required by this section through the use of funds made
28 available from the opioid settlement fund established pursuant to
29 section ninety-nine-nn of the state finance law.

30 (b) The department shall pursue all federal funding, matching funds,
31 and foundation funding for the initial start-up and ongoing activities
32 required by this section.

33 (c) The department may receive such gifts, grants, and endowments from
34 public or private sources as may be made from time to time, in trust or
35 otherwise, for the use and benefit of the purposes of this section and
36 expend the same or any income derived from it according to the term of
37 such gifts, grants, or endowments.

38 § 4. Severability clause. If any clause, sentence, paragraph, subdivi-
39 sion, section or part of this act shall be adjudged by any court of
40 competent jurisdiction to be invalid, such judgment shall not affect,
41 impair, or invalidate the remainder thereof, but shall be confined in
42 its operation to the clause, sentence, paragraph, subdivision, section
43 or part thereof directly involved in the controversy in which such judg-
44 ment shall have been rendered. It is hereby declared to be the intent of
45 the legislature that this act would have been enacted even if such
46 invalid provisions had not been included herein.

47 § 5. This act shall take effect immediately.