# STATE OF NEW YORK

5128--B

Cal. No. 311

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:**

Section 1. Short title. This act shall be known and may be cited as the "model overdose mapping and response act".

§ 2. Legislative findings and purpose. The legislature finds that substance use disorder and drug overdose is a major health problem that affects the lives of many people, multiple service systems, and leads to profound consequences including permanent injury or death. Accidental overdoses caused by heroin, fentanyl, other opiates, stimulants, controlled substance analogs, novel psychoactive substances, and other legal or illegal drugs are a national security crisis that stress and strain the financial, public health, health care, and public safety resources in New York state. This impact is because there are few central databases that can quickly help identify this problem and limited funding for support to mitigate the crisis and risks statewide. There is a need for collaboration among local, regional, and state agencies, service systems, program offices within New York state, and other partners such as federal agencies to establish a comprehensive system addressing the problems associated with overdoses and to reduce duplicative requirements across local, county, state, public safety, and health 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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combine their numerous resources and strengths, thus reducing insular decision-making. Contemporaneous data collection about, and public surveillance of, confirmed or suspected overdoses with New York state will allow state and local agencies to focus on specific areas where the following are needed most in order to maximize resources: (1) interventions to reduce supply; (2) public education about substance misuse; (3) treatment and other health care options to reduce demand; and (4) implementation of risk reduction strategies.

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

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

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

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

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

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

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

**(d) "Information technology platform" means the Washington/Baltimore High Intensity Drug Trafficking Areas' Overdose Detection Mapping Application Program (ODMAP), which has the ability to:**

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

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

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

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

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

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

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

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

(h) "Overdose incident" means an occurrence where a law enforcement officer, person who administers emergency medical services, coroner, or medical examiner encounters a person experiencing, or who recently experienced, a confirmed or suspected overdose.

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

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

(k) "Overdose spike response plan" means a compilation of recommendations for coordinated responses to overdose spikes identified through the use of the information technology platform.

(l) "Person who administers emergency services" means a paid or volunteer professional, other than a law enforcement officer, who is trained and licensed in the state to provide emergency services to the public, including but not limited to a firefighter, emergency medical technician, emergency medical responder, paramedic, and emergency department personnel.

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

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

(ii) develop strategies for public health and public safety interventions that may be effective in reducing the rate of fatal or nonfatal overdoses.

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

which a central repository containing information about overdose incidents is established and maintained using the information technology platform.

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

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

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

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

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

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

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

(ii) the location of the overdose incident;

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

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

(v) the gender and approximate age of the person suffering the overdose incident; and

(vi) the suspected substance involved.

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

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

(i) shall consult with all affected entities, including but not limited to, law enforcement agencies, health care providers, emergency management, emergency service providers, public health agencies, coroners and medical examiners, tribal authorities, state drug court judges, and federal and state prosecutors;

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

(iii) may promulgate rules, regulations, or standard operating procedures necessary to carry out the requirements of this section.

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

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

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

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

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

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

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

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

(i) the legislature;

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

(iii) the office of addiction services and supports;

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

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

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

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

(ii) the entities reporting, or who employed persons reporting, information about overdose incidents;

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 5. This act shall take effect immediately.