

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, March 12, 2018
TIME: 2:00 P.M.
PLACE: Room WW54
MEMBERS PRESENT: Chairman Heider, Vice Chairman Souza, Senators Martin, Lee, Harris, Agenbroad, Foreman, Potts, and Jordan
ABSENT/ EXCUSED: None
NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
CONVENED: **Chairman Heider** called the meeting of the Health and Welfare Committee (Committee) to order at 2:10 p.m.
APPROVAL OF MINUTES: **Vice Chairman Souza** moved to approve the Minutes of February 19, 2018. **Senator Martin** seconded the motion. The motion carried by **voice vote**.
H 0649 **Medical Help, Overdose, Charges. Representative Chew** explained community members requested this bill be brought forward. This bill would provide immunity for individuals who solicit assistance in the case of a drug overdose.

Paul Panther introduced himself as the Chief of the Criminal Law Division of the Idaho Attorney General's Office. The Attorney General's Office assisted in the drafting of this bill; however, **Mr. Panther** noted the Attorney General's Office does not take a position on bills. This bill would provide limited immunity from prosecution for a few crimes related to drug use. The purpose of the bill is to encourage individuals to contact authorities in drug-related emergency situations.

Mr. Panther commented 40 states currently have a law similar to **H 0649**. He explained this bill grants immunity from prosecution for: possession of a controlled substance; possession of marijuana in an amount less than one pound; possession of drug paraphernalia; and using or being under the influence of a controlled substance. **Mr. Panther** stressed this bill would not provide immunity from any other crimes, including trafficking and distribution of controlled substances.

This bill proposes to offer immunity to an individual who seeks medical assistance for someone in a drug-related emergency. The immunity would apply to the individual who contacts authorities and the individual in need of medical assistance; in some cases, this may be the same individual. Evidence found as a result of the call to authorities could not be used to prosecute the individuals of crimes for which the bill provides immunity. However, evidence found could be used to prosecute the individuals for crimes not enumerated in this bill. **Mr. Panther** described several hypothetical scenarios in which immunity would apply. This bill would require actors to act in good faith, which means they must have an honest and reasonable belief that there is an emergency requiring treatment.

DISCUSSION: **Senator Martin** asked what would prevent someone who is being arrested from claiming there is a medical emergency in order to avoid arrest. **Mr. Panther** stated if a medical emergency occurs after law enforcement has arrived, the evidence found by is admissible because it was not found as the result of a request for medical assistance. **Senator Martin** sought more information about the amount of heroin sufficient to constitute trafficking under State criminal law. **Mr. Panther** explained that possessing more than two grams of heroin constitutes drug trafficking.

Senator Lee asked if this bill would grant immunity to individuals who are pulled over while driving and claim to be seeking medical assistance for a passenger in the vehicle. **Mr. Panther** stated it is ultimately the court's decision whether a situation fits within the parameters of this bill. He reiterated this bill only applies to individuals requesting or receiving medical assistance.

Senator Jordan asked if this bill would provide immunity for individuals in any circumstance other than a request for medical assistance. **Mr. Panther** responded in the negative. **Senator Jordan** asked if first responders would be able to direct the individual needing assistance to other services such as a treatment facility. **Mr. Panther** noted the immediate concern of first responders would be to ensure proper treatment for the individual needing assistance. He stated the necessity of future treatment would be determined on a case-by-case basis.

Vice Chairman Souza inquired as to the definition of "medical emergency." **Mr. Panther** responded there may not be a statutory definition for medical emergency. He explained the term is intentionally broad and encompasses situations such as drug overdose. **Vice Chairman Souza** expressed concern that the lack of a determined definition for medical emergency could lead individuals to take advantage of the immunity granted by this bill. **Mr. Panther** stated the provision requiring requests for assistance to be made in good faith would help prevent misuse of this immunity.

Senator Agenbroad asked if this bill would provide immunity from prosecution for driving under the influence if the individual seeking assistance is driving a motor vehicle. **Mr. Panther** responded in the negative.

TESTIMONY: **Rosie Andueza** introduced herself as the Manager of the Substance Use Disorder Program in the Division of Behavioral Health within the Idaho Department of Health and Welfare (DHW). She shared statistics about drug overdose in the United States and in Idaho. She noted that the incidence of drug overdoses in Idaho has increased over the last five years.

DISCUSSION: **Senator Jordan** asked if this bill would benefit the court system by reducing the number of possession charges. **Ms. Andueza** stated she was unsure, but she noted a decrease in the number of such charges would logically follow from the passage of this bill.

TESTIMONY: **Monica Forbes** shared her personal experience and spoke in support of this bill.

DISCUSSION: **Vice Chairman Souza** inquired as to whether opioid use is considered acceptable or "cool" among certain groups. **Ms. Forbes** stated she has never encountered anyone who considered opioid use to be "cool." She asserted no one enjoys being addicted to opioids.

TESTIMONY: **Don Hayes** shared his personal experience and spoke in support of this bill.

Chrystal Allen shared her personal experience and spoke in support of this bill.

DISCUSSION: **Senator Foreman** commended Representative Chew for her work on this bill. He stated granting immunity should not be necessary to convince people to solicit medical assistance when in an emergency. He expressed concern that this bill would provide immunity for some felony drug charges.

MOTION: There being no more questions or testimony, **Senator Foreman** moved to hold **H 0649** in Committee. The motion died for lack of a second.

SUBSTITUTE MOTION: **Senator Jordan** moved to send **H 0649** to the floor with a **do pass** recommendation. **Vice Chairman Souza** seconded the motion.

DISCUSSION: **Senator Potts** touted adding a sunset clause to this bill. He asked if there would be a tracking mechanism that could be used to determine the effectiveness of the immunity.

Senator Jordan stated police departments and emergency services track calls; therefore, there would be a reporting/tracking mechanism for this bill.

VOICE VOTE: The substitute motion carried by **voice vote**. **Senator Foreman** voted **nay**.

H 0618 **Legend Drugs, Code Imprint.** **Senator Potts** stated this bill would repeal Chapter 32, Title 37, Idaho Code, which was created in 1981 and required manufacturers to add an imprint code to all drugs. Similar laws in other states prompted a change in federal law. Since 1995, the United States Food and Drug Administration (FDA) has required all manufacturers of oral dosage-form drug products to add an imprint code to drugs; thus, Chapter 32, Title 37, Idaho Code is now obsolete and has not been enforced in over 20 years.

DISCUSSION: **Vice Chairman Souza** asked if this bill would eliminate the requirement for code imprinting on drugs. **Senator Potts** clarified that the FDA requires code imprinting; therefore, Idaho Code no longer needs to require it.

Senator Lee inquired as to why it is necessary to repeal Chapter 32, Title 37, Idaho Code. **Senator Potts** asserted the code is no longer needed because it is not used. He noted the code can be reinstated in the future if it becomes necessary. **Senator Lee** sought information regarding the motivation behind this bill. **Senator Potts** stated Representative Zollinger approached the Idaho Board of Pharmacy (BOP) about removing Chapter 32, Title 37, Idaho Code. The BOP agreed to the propriety of the repeal of this portion of code.

Dr. Alex Adams, PharmD, MPH, introduced himself as the Executive Director of the BOP. **Dr. Adams** stated it would be beneficial to repeal Chapter 32, Title 37, Idaho Code because the federal version of this law has been updated. Chapter 32, Title 37, Idaho Code has not been updated accordingly; therefore, the code either needs to be updated or repealed. He noted he did not envision any scenario in which the federal law requiring code imprinting would be repealed. He asserted there is no harm in repealing Chapter 32, Title 37, Idaho Code.

MOTION: There being no more questions or testimony, **Senator Lee** moved to send **H 0618** to the floor with a **do pass** recommendation. **Senator Agenbroad** seconded the motion. The motion carried by **voice vote**. **Senator Potts** will carry the bill on the floor.

PRESENTATION: Suicide Prevention. **Kim Kane** introduced herself as the Program Manager for the Suicide Prevention Program within DHW. **Ms. Kane** shared the history of suicide prevention organizations in Idaho. She noted there has been growth in the number of organizations involved in suicide prevention efforts. Development of the Suicide Prevention Program (Program) began in 2014. The Program's initial goals were: funding for youth suicide prevention; funding for a suicide prevention hotline; and a public awareness campaign. To achieve these goals, the Program: provided suicide prevention training for school staff at schools throughout Idaho; assisted 8,978 individuals through the suicide prevention hotline in 2017; created public service announcements about suicide that aired on television; developed brochures that target specific stakeholder groups; and produced public awareness materials.

DISCUSSION: **Senator Harris** and **Senator Lee** inquired as to why certain counties have not received public awareness materials from the Program. **Ms. Kane** noted the materials have primarily been distributed through the Program's marketing campaign. There was an effort to distribute materials to bars and restaurants throughout the State. With the amount of available funding, the Program could not reach all parts of Idaho.

Vice Chairman Souza asked if the Program was distributing any materials through the Public Health Districts. **Ms. Kane** responded in the affirmative.

Ms. Kane noted the Program has created a suicide prevention poster specifically targeted to the jail population. The suicide prevention hotline will soon be made accessible to inmates. The Program also participates in a national initiative known as Zero Suicide. Forty-five percent of suicide victims have seen a primary care physician within a month of their death. The Zero Suicide initiative involves educating health care providers on suicide prevention.

Senator Lee asked how inmates would access the suicide prevention hotline and who would be responsible for funding such calls. **Ms. Kane** stated she was unsure who would pay for the calls. She commented the Idaho Sheriff's Association is currently working with telecommunication companies to provide inmates access to the hotline.

Vice Chairman Souza noted the suicide prevention hotline was disconnected for several years but was eventually reestablished. She inquired as to why this occurred. **Ms. Kane** explained the original hotline was a small service run by Boise State University. The hotline closed due to lack of funding. The hotline was then reestablished after new funding mechanisms were developed.

Ms. Kane shared one of the Program's public service announcements with the Committee.

PRESENTATION: Dental Therapy Aides. **Tyrel Stevenson** introduced himself as the Legislative Director for the Coeur d'Alene Tribe. He stated the Coeur d'Alene Tribe expanded the Benewah Health Center in 2012 into a 50,000 square foot facility that provides a variety of services, including optometry, chiropractic services, medical services, behavioral health services, and dental services. The facility is now known as the Marimn Health and Wellness Center. There are currently two to four full-time dentists in the dental clinic. The dental clinic serves many community members, both native and non-native.

Ms. Stevenson presented information about the Dental Health Aid Therapy Program, which is part of the Community Health Aid Program. This program was developed in Alaska and was designed to meet the needs of underserved communities. **Ms. Stevenson** compared dental health aid therapists (DHAT) to

physician's assistants. DHATs have a limited scope of practice, but they perform certain procedures that dentists would otherwise perform. They must practice under the general supervision of a dentist. DHATs are individuals that come from the community and are highly-trained.

In Alaska, the DHAT Program has been successful. It has lowered the number of tooth extractions and improved dental health in the participating communities. **Mr. Stevenson** noted that mid-level dental services must be authorized by the State before DHATs can begin working in Idaho. Currently, one member of the Coeur d'Alene Tribe is enrolled in the DHAT Program. She is expected to graduate in 2019.

Chairman Heider asked how the DHAT Program would comply with Idaho Board of Dentistry (BOD) rules. **Ms. Stevenson** stated the Coeur d'Alene Tribe has discussed this with the BOD. He explained the DHAT Program is not yet accredited by the Commission on Dental Accreditation; however, it has applied for accreditation and is likely to receive accreditation in summer 2018. **Ms. Stevenson** expressed willingness to continue discussing this topic with the BOD.

ADJOURNED: There being no further business, **Chairman Heider** adjourned the meeting at 3:32 p.m.

Senator Heider
Chair

Rachel Goodman
Secretary