



# SENATE BILL 616: Heroin & Opioid Prevention & Enforcement Act.

2017-2018 General Assembly

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<b>Committee:</b>		<b>Date:</b>	June 13, 2018
<b>Introduced by:</b>	Sen. J. Davis	<b>Prepared by:</b>	Jennifer H. Bedford
<b>Analysis of:</b>	Fourth Edition		Staff Attorney

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**OVERVIEW:** *Senate Bill 616 amends the North Carolina Controlled Substances Act by creating the Heroin and Opioid Prevention and Enforcement (HOPE) Act of 2018.*

## **BILL ANALYSIS:**

### **Part I. TITLE OF ACT**

**Section 1** sets forth the title of the act as the Heroin and Opioid Prevention and Enforcement (HOPE) Act of 2018.

### **Part II. AMENDMENTS TO THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT**

**Sections 2, 3, and 6** make technical changes to the chemical names of two controlled substances.

**Section 4** includes the immediate precursor chemical required for the manufacture of fentanyl as a Schedule II Controlled Substance under G.S. 90-90.

**Section 5** adds the precursor chemical used in the manufacturing process of fentanyl to the list of immediate precursor chemicals.

**Section 7** makes conforming changes to the way opioids are referenced in Chapter 90; expands the criminal offenses related to MDPV to include "any substituted cathinone" and consolidates the existing offenses in light of the expansion.

**Section 8** adds a new section to Article 5 of Chapter 90 of the General Statutes that does the following:

- Creates the position of a "certified diversion investigator".
- Requires that a certified diversion investigator request and receive prescription information from pharmacies when required, and only when required, for an active investigation related to a controlled substance.
- Requires that a pharmacy provide the requested information, and protects the pharmacist from liability for sharing the confidential information.

**Section 9** makes technical corrections, and creates the following criminal offenses:

- A Class 1 misdemeanor for aiding the diversion of a controlled substance.
- A Class I felony for intentionally aiding the diversion of a controlled substance.
- A Class E felony for a medical professional that intentionally dilutes or substitutes any controlled substance.

Karen Cochrane-Brown  
Director



Legislative Analysis  
Division  
919-733-2578

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## **Part III. AMENDMENTS PERTAINING TO THE NORTH CAROLINA CONTROLLED SUBSTANCES REPORTING SYSTEM ACT**

*The Controlled Substances Reporting System (CSRS) is a database maintained by DHHS that tracks prescriptions for Schedule II through Schedule V controlled substances. Dispensers are required to report certain information on prescriptions they fill within close of the next business day after the prescription is delivered, but are encouraged to report such information within 24 hours of delivery. Such information is confidential and may only be accessed by certain persons for specific purposes set forth by statute. Current law allows DHHS to release CSRS data to persons authorized to prescribe controlled substances, special agents of the North Carolina SBI, as well as others.*

**Section 10** requires a lawful controlled substance dispenser to report the prescriber's national provider identification number, and creates a civil penalty for failure to report.

**Section 11(a)** authorizes access to the controlled substance reporting system to the Attorney General of North Carolina; expands access to the Tactical Diversion Squad in North Carolina; and creates the following criminal offenses:

- A Class I felony for accessing unauthorized prescription information in the controlled substance reporting system.
- A Class I felony for disclosing prescription information for an unauthorized purpose.
- A Class H felony for maliciously obtaining, disclosing, or disseminating prescription information for personal gain or to cause harm

**Section 11(a)** also does the following:

- Permanently bars an individual convicted of one of these criminal offenses from accessing the controlled substance reporting system.
- Expands the SBI's Diversion & Environmental Crimes Unit's jurisdiction to include suspected criminal use of the controlled substance reporting system.

**Section 11(b)** establishes the following conditions and requirements for the release of information from the controlled substance reporting system to law enforcement:

- Release is only authorized to a certified diversion investigator, working with a qualified law enforcement agency, related to illegal controlled substance activity, and the request for information has been approved by the SBI.
- The SBI is not liable for the disclosure of confidential information as requested by the certified diversion investigator.
- Documentation of the requested information and resulting investigations will be kept, and audited by the SBI.
- The information obtained by the certified diversion investigator may only be shared with law enforcement and prosecutors directly involved with the investigation and prosecution.
- The matter may be referred by local law enforcement to the SBI if appropriate.
- Information may not be requested or received from other states, using the controlled substance reporting system.
- Defines the new terms related to the parties authorized access to the reporting system.
- The Department of Health and Human Services (DHHS) is directed to enable specific access to the controlled substance reporting system.

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- Direct DHHS to document the system's activity so that unauthorized access may be investigated by the SBI and prosecuted by the Office of the Attorney General.

**Section 11(c)** directs DHHS to begin developing ways to implement the data release provisions required.

**Section 12** enables DHHS to temporarily suspend a reporting system user's access to the system in the event of a suspected unauthorized use of information; and relieves a party acting lawfully and in good faith from liability for accessing and disclosing confidential information.

**Section 13** authorizes and describes the training and certification of diversion investigators.

**Section 14** creates the minimum standards and levels of training for diversion investigators and diversion supervisors, and requires recertification at least every three years, and authorizes Training and Standards Commission to suspend, revoke, and deny certification.

## **Part IV. APPROPRIATIONS**

**Section 15** expresses the General Assembly's intent to appropriate additional funds in the future for community-based substance use disorder treatment and recovery services, the purchase of overdose medications, Operation Medicine Drop, and a special agent position within the SBI.

## **Part V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

**Section 16** makes any provisions of the bill held to be invalid by a court severable from the other provisions of the bill, which would remain in effect.

**Section 17.** Sections 8 and 11(b) of this act would become effective July 1, 2019. Section 10 would become effective September 1, 2018. Section 9 of this act and the criminal offenses created in G.S.90-113.74(k) by Section 11(a) of this act, would become effective December 1, 2018. The remainder of this act would become effective July 1, 2018.

\* Theresa Matula, Jessica Boney, and Jason Moran-Bates contributed to this Bill Summary.