



NEW YORK STATE SENATOR

Terrence Murphy

Drug dealers would face homicide charges after overdose under Senate heroin package

TERRENCE P. MURPHY June 10, 2015

| ISSUE: **CRIME, CONTROLLED SUBSTANCES, PRESCRIBED DRUGS OR PRESCRIPTIONS, CRIMINAL**



ALBANY, NY - State Senator Terrence Murphy, co-chairman of the New York State Senate Joint Task Force on Heroin and Opioid Addiction, today announced passage of a package of bills to help decrease heroin deaths and put more drug dealers behind bars for peddling dangerous opioids. The measures are being put forth by the Task Force as part of its continuing examination of the issues created by increased heroin abuse that is causing hundreds of deaths in communities across the state.

"The first round of hearings provided valuable insight as to the obstacles we as a state must overcome to win the war on heroin and opioid addiction," Senator Murphy said. "This legislative package will advance important legislation from last year's Task Force as well as address new issues which have been identified as a result of the most recent hearings. Ultimately, we must continue our fight every day to curb the scourge of this epidemic by holding drug dealers accountable and by providing realistic options for prevention and those in recovery."

Over the past several weeks, the Task Force has held forums in Yorktown, Rochester, Lewiston, and Albany. Additional forums will be planned for more New York communities in the fall. The Task Force will then issue a report with recommendations for further legislative action to address concerns raised by law enforcement, health and mental health experts, victims' advocates, and other stakeholders who participated in the forums.

The preliminary package of 13 bills builds on the 2015-16 State Budget, which provided significant funding for programs targeting the heroin crisis, including: \$7.8 million in funding for statewide prevention, treatment and recovery services; \$450,000 to purchase Narcan kits given out for free to individuals who participate in a Narcan training class; and \$140,000 to finance the cost of Narcan kits for staff and nurses authorized to administer Narcan in the event of a heroin or opioid overdose at school.

The legislation passed this week includes:

- Establishing the crime of homicide by sale of an opioid controlled substance, also known as "Laree's Law" (S4163), sponsored by Senator George Amedore: Allows law enforcement to charge a drug dealer with homicide if a person dies from an opiate controlled substance sold by that dealer. The law specifically targets those who seek to profit from heroin and

other opioid sales - not a witness or other person who may have been doing drugs (i.e. a "co-user") with the victim at the time of the accidental overdose. In 2011, New York adopted a "Good Samaritan" law that shields individuals from charges related to an accidental overdose if they try to help the victim by timely reporting the incident.

- Expanding the crime of operating as a major trafficker (S4177), sponsored by Senator Murphy: Helps strengthen the laws relating to major drug traffickers to more accurately reflect the nature of their criminal enterprises and increase successful prosecutions. The bill changes the number of persons needing to be involved and charged as part of a drug organization from four to three. Also, to reflect the low street prices of heroin, the bill lowers the minimum required proceeds from the sale of controlled substances during a 12 month period from \$75,000 to \$25,000.
- Facilitating the conviction of drug dealers (S100), sponsored by Senator Phil Boyle: Allows someone to be charged with the crime of intent to sell if they possessed 50 or more packages of a Schedule I opium derivative, or possessed \$300 or more worth of such drugs. Because of the physical nature of heroin, dealers can carry large quantities of the drug before triggering a felony charge of possession. Conversely, due to the nature of heroin use and addiction, most heroin users do not possess more heroin than they intend to use at that time, as someone high on heroin has no impulse control and will continue to consume all heroin available until it is gone.
- Improving safety at judicial diversion programs (S1901), sponsored by Senator John Bonacic: Requires a court, in determining a defendant's eligibility for a judicial diversion program for alcohol or substance abuse treatment, to consider the underlying charges and the defendant's propensity for violent conduct. The bill also requires the facility treating a defendant under this diversion program to notify the local law enforcement of the defendant's placement and arrest record, and to submit a security plan to the Division of Criminal Justice Services (DCJS) to provide for the safety of staff residents and the

community. Finally, this bill allows a defendant to appear via video conference, and makes unauthorized departure from a rehabilitation facility a class D felony.

- Preventing the sale of synthetic opioids (S1640), sponsored by Senator Jeffrey D. Klein: Expands the list of controlled substances in schedules I, II, III, IV, and V to include any controlled substance which is intended for human consumption and is structurally or pharmacologically substantially similar to, or is represented as being similar to heroin, opium, or other opioid-based narcotic. This would help combat the quickly-moving world of designer drugs.
- Expanding treatment options for individuals in judicial diversion programs for opioid abuse or dependence (S4239B), sponsored by Senator Murphy: Provides that under no circumstances shall a defendant who requires treatment for opioid abuse or dependence be deemed to have violated the release conditions on the basis of his or her participation in medically prescribed drug treatments while under the care of a qualified and licensed physician acting within the scope of his or her lawful practice.
- Establishing assisted outpatient treatment for substance use disorders (S631), sponsored by Senator David Carlucci: Enables a court to order assisted outpatient treatment (AOT) for an individual with a substance use disorder who, due to his or her addiction, poses a threat to him, herself, or others.
- Creating a Prescription Pain Medication Awareness Program (S4348), sponsored by Senator Kemp Hannon: Creates a continuing medical education program for practitioners with prescribing privileges. The Department of Health (DOH) and the State Education Department (SED) would establish standards for three hours of biennial instruction on topics including I-STOP requirements, pain management, appropriate prescribing, acute pain management, palliative medicine, addiction screening and treatment, and end-of-life care. Additionally, it allows for the consideration of existing curricula, and establishes exemptions for practitioners who would not require such training due to the nature, area,

or specialty of his or her practice.

- Creating Drug-Free Zones upon the grounds of drug or alcohol treatment centers (S4023), sponsored by Senator Dean Skelos: Creates "drug-free zones" prohibiting the criminal sale of a controlled substance within 1,000 feet of a drug or alcohol treatment center and methadone clinic, similar to "drug-free zones" for schools.
- Making Kendra's Law permanent (S4722), sponsored by Senator Cathy Young: Improves care for people with serious mental illness and protects the safety of patients and the public by streamlining and improving New York's AOT program (Kendra's Law), along with making it permanent. The experience of thousands of patients, treatment providers, and families who have utilized Kendra's Law since 1999 point to several areas where the law could be improved to achieve costs savings, promote smoother functioning of the AOT program, and provide easier access to those who stand to benefit from it.
- Criminalizing the illegal transport of opiate controlled substances (S608), sponsored by Senator Boyle: Further criminalizes the illegal transport of an opiate controlled substance when it is transported any distance greater than five miles within the state, or from one county to another county within the state. Under current law, both sale and possession are criminal offenses. By criminalizing the unlawful transport of these dangerous and addictive substances, law enforcement will have an additional tool to prosecute dealers, especially those who travel far distances to increase their profits.
- Establishes the option for a youth, suffering from a substance use disorder, to be adjudicated as a Person In Need of Supervision (PINS) (S3237), sponsored by Senator Jack Martins: Provides parents with the ability to file a PINS petition in family court for the potential placement of one's child who is suffering from a substance use disorder into a substance use treatment program. Any detention of the youth in such a program would be for up to 60 days, with the potential for an extension of an additional 90 days.

- Increasing the effectiveness of abuse prevention (S2847), sponsored by Senator Andrew Lanza: Requires the Department of Health to assign at least one investigator from the Bureau of Narcotics Enforcement to each county within New York City.

The bills have been sent to the Assembly.