



NEW YORK STATE SENATOR

Elaine Phillips

Senator Phillips Announces Senate Passes Bills To Save Lives And Stop Drug Dealers From Exploiting New York's Heroin Epidemic

ELAINE PHILLIPS April 30, 2018

THE NEW YORK STATE SENATE:

**COMBATING HEROIN
& OPIOID ABUSE**



Senator Elaine Phillips announced today that the New York State Senate passed a package of measures, which she cosponsored, that put a necessary focus on strengthening laws to stop drug dealers and others who are profiting from the deadly heroin epidemic continuing to grip the state.

“The fight against the heroin and opioid crisis on Long Island and throughout New York must be a multi-pronged approach to focus on all aspects of our epidemic,” Senator Phillips, a

member of the Senate's Joint Task Force on Heroin and Opioid Addiction, said. "This legislative package addresses the drug dealer side by making it easier to prosecute heroin dealers, strengthening penalties for sale of a controlled substance to minors, establishing new penalties for heroin sales and more. These measures, coupled with the resources provided by the Senate Majority's securement of a record \$247 million in this year's budget, will help improve treatment, prevention, law enforcement initiatives and educational programs. I applaud my colleagues in the Senate for passing this package, and urge the Assembly and Governor Cuomo to take up these measures."

The bills include stronger penalties for major drug dealers selling heroin, as well as for fraudulent medication prescriptions that fuel opioid addictions; measures to protect dealers from preying on children; and legislation that expands the types of dangerous controlled substances regulated by the state, among others.

Action on these bills builds upon the Senate's success in getting two new derivatives of fentanyl and several new hallucinogenic drugs, synthetic cannabinoids, and cannabimimetic agents to the state's controlled substances schedule as part of this year's budget process. In addition, the budget includes a new record investment of \$247 million – \$20 million above the 2018-19 Executive Budget proposal, and \$37 million above 2017-18 – requested by the Senate's Task Force for prevention, treatment and recovery. The bills passed today include:

Making it Easier to Prosecute Heroin Dealers:

S638: Assists in the prosecution of heroin dealers by creating a presumption that the possession of 50 or more individual packages containing heroin and/or having an aggregate value of \$300 is possession with intent to sell. Currently, dealers can carry large quantities of the drug before triggering a felony charge of possession.

Establishing New Penalties for Heroin Sales:

S880: Creates appropriate-level penalties for heroin sales, taking into account the lighter weight of heroin. Heroin weighs less than other drugs and therefore more doses of heroin are needed to trigger various existing criminal offenses.

Creating Drug Free Zones Around Drug or Alcohol Treatment Centers:

S1127: Criminalizes the sale of a controlled substance on the grounds of a drug or alcohol treatment center, or within 1,000 feet of such facilities. Statistics show that drug dealers often prey on individuals with addictions by sitting in the immediate vicinity of a drug or alcohol treatment center or methadone clinic waiting for people to come out so they can sell them drugs.

Cracking Down on Black Market Prescription Drugs:

S2814: Establishes the offense of fraudulent prescription, dispensing, and procurement of non-controlled substance prescription medications and devices, and establish the offense of unlawful possession of non-controlled substance prescription medications and devices. The gaps in existing law and the growth of a black market make it self-evident that change is necessary. This bill will address the problem by increasing or establishing criminal penalties that better fit these crimes.

Toughening Penalties for Sale of a Controlled Substance to Minors:

S3845: Helps curb rising drug abuse among high school students and other youth by making the sale of a controlled substance by an adult to a minor under the age of 14 a class A-II felony.

Cracking Down on The Sale of Carfentanil:

S623: Makes the sale of 2 milligrams or more of Carfentanil a Class A-II felony and the sale of

10 milligrams or more of Carfentanil a Class A-I felony. Carfentanil is synthetic opioid and a schedule II controlled substance, which is 100 times deadlier than fentanyl, and 10,000 times stronger than morphine.

Criminalizing Alpha-PVP / “Flakka”:

S816: Designates Alpha-PVP, also known as “Flakka” or “Gravel” as a controlled substance. Similar to bath salts and methamphetamine, use of this designer drug has been known to cause violent behavior, with side effects including nausea, vomiting, paranoia, hallucinations, delusions, suicidal thoughts, seizures, chest pains, and increased blood pressure and heart rate.

Two other bills were recently amended and will be voted upon as soon as they are eligible:

Outlawing Lethal Fentanyl:

S933B: Adds new derivatives of fentanyl to the controlled substance schedule and increases criminal penalties for the sale of an opiate containing a fentanyl derivative. Fentanyl is a strong pain medication that is often combined with anesthesia to prevent surgery-related pain. However, it is increasingly being mixed with heroin and other drugs to produce a cheaper and more lethal product. The other bill, S5884A, sponsored by Senator Jacobs, adds new derivatives of fentanyl to the controlled substance schedule regulated by the state Department of Health.

In addition, the Senate acted on important legislation today to increase prevention, treatment, and recovery as part of the multi-pronged approach to help those impacted by heroin and opioid addiction, including:

Limiting Children’s Opioid Exposure:

S5949: Helps address the increasing risk of children becoming addicted to opioids and heroin after being prescribed painkillers for medical procedures or illegally sharing extra prescriptions. The bill requires a health practitioner to receive written consent from a minor's parent or legal guardian in order to prescribe a medical treatment containing opioids, as well as to discuss the risks of addiction and dangers of overdose associated with the medication. The bill also limits the prescription for a controlled substance containing an opioid to a seven-day duration unless there is a medical emergency that puts the child's health or safety at risk.

Expanding Access to Funding for State Substance Abuse Services:

S898A: Authorizes the state Office of Alcoholism and Substance Abuse Services (OASAS) to provide funding to substance use disorder and/or compulsive gambling programs operated by for profit agencies. Current statute states all funds issued by OASAS to provide addiction prevention, treatment, and recovery services must be awarded to non-profit providers. For-profit organizations - which provide similar services - are unable to apply for state contracts through OASAS and such restrictions limit competition within the RFP process that would ensure state dollars are being used in the most efficient way possible.

Coordination of Prescriptions Following an Overdose:

S2639: Requires hospital and emergency room physicians to notify a patient's prescriber when a patient is being treated for a controlled substance overdose. The measure enhances the effectiveness of the Prescription Monitoring Program (PMP) Registry when prescribing controlled substances by ensuring that vital medical information is shared among health care practitioners. The bill requires an emergency room or hospital practitioner treating a patient with an opioid overdose to consult the PMP registry and notify the patient's prescriber of the overdose. Without such notification of the overdose, it is very possible that

the prescriber/practitioner would not know that the patient had suffered an overdose of the opioid.

The Senate also called for action on four bills strengthening enforcement and addressing challenges the opioid epidemic has created that have already passed this session and await action by the Assembly and Governor to become law:

- S2761: “Laree’s Law” allows law enforcement officials to charge a drug dealer with homicide if a death results from the sale of heroin or an opiate-controlled substance. This legislation is intended to target mid- to high-level drug dealers who profit from heroin sales, but does not punish co-users by providing a defense for those who bought and used the opiate with the deceased. New York State’s “Good Samaritan Law” also shields individuals from charges related to an overdose if they attempt to help the individual and report the incident in a timely manner;
- S6544: Makes it a crime to offer or accept any kickback from an individual or entity that provides substance abuse services in exchange for patient referral and admission. There has been a rise in individuals who aggressively pursue people in need of substance use disorder treatment services and, for a sometimes-extravagant fee, promise admission to treatment programs. For individuals engaging in this predatory behavior, the most desirable patients are those with robust insurance coverage, and out-of-network benefit packages. Patient brokers refer these clients to programs offering the highest rate of “return” to the patient broker, with little or no regard for the patient’s specific needs. This predatory practice capitalizes on, and exploits, families’ fears while putting patients at risk of inappropriate treatment;
- S902: The creation of a Sober Living Task Force would identify and promote alcohol and drug free living environments across the state for persons in recovery from a chemical

dependency; and

- S7354: The Drug Take Back Act is a unified, statewide drug take-back program that will save government and taxpayer money and reduce medication misuse. In addition, the program would protect New York State's water supplies by preventing drugs from being improperly disposed of by flushing or other means that result in contamination of water bodies and negatively impact aquatic life.

The bills were sent to the Assembly.