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Legislative Document

No. 1429

H.P. 983

House of Representatives, April 13, 2017

An Act Regarding the Epidemic of Opiate Abuse

Submitted by the Department of the Attorney General pursuant to Joint Rule 204. Reference to the Committee on Health and Human Services suggested and ordered printed.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative GROHMAN of Biddeford. Cosponsored by Senator DION of Cumberland and Senators: CYRWAY of Kennebec, DESCHAMBAULT of York.

1 Be it enacted by the People of the State of Maine as follows:

Sec. 1. 15 MRSA §5826, sub-§6, as amended by PL 1999, c. 408, §3, is further
 amended to read:

4 6. Final order of disposition of property; public education campaign. Following 5 the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record and following the court's disposition of all 6 petitions for hearing timely filed by 3rd parties, the State has clear title to property that is 7 8 the subject of the indictment, information or complaint. The final order must provide for 9 the deposit of the property or the proceeds from the disposition of the property, less the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of 10 custody, advertising and notice, in the General Fund, except that, to the extent that the 11 court finds it reasonable, the court may order forfeiture of as much of the property as is 12 appropriate, less the reasonable expenses of the forfeiture proceedings, seizure, storage, 13 14 maintenance of custody, advertising and notice, to a municipality, county or state agency 15 that has made a substantial contribution to the investigation or prosecution of a related criminal case or, upon request of the investigating agency or the prosecuting agency, to a 16 17 law enforcement agency in this State that provides case management and other social services to persons with substance use disorders. 18

- 19 Sec. 2. 17-A MRSA §1105-B, sub-§1, ¶D, as enacted by PL 2003, c. 476, §5, is
 20 amended to read:
- D. Death or serious bodily injury <u>of another person</u> is in fact caused by the use of that counterfeit drug <u>one or more drugs and the drug furnished by the defendant is a</u> contributing factor to the death or serious bodily injury of the other person.
- 24 Sec. 3. 17-A MRSA §1105-C, sub-§1, ¶K, as enacted by PL 2003, c. 476, §7, is 25 amended to read:

26 K. Death of another person is in fact caused by the use of that scheduled drug one or more drugs and the drug is a schedule W drug furnished by the defendant is a 27 28 contributing factor to the death of the other person. A violation of this paragraph is a 29 Class B crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished was lawfully possessed by the defendant prior to furnishing and 30 31 that the death was not a reasonably foreseeable consequence of the use of that 32 scheduled drug. In determining whether the death was reasonably foreseeable, the jury shall consider: 33

- 34 (1) The factual circumstances surrounding the furnishing of the drug;
- 35 (2) The total quantity of the drug furnished;
- 36 (3) The dosage of the units furnished;
- 37 (4) The nature of the drug;
- 38 (5) The overdose risk presented by use of the drug; and
- 39 (6) Any safety warnings provided to the defendant at the time of dispensing the drug; or

Sec. 4. 22 MRSA §7250, sub-§7 is enacted to read:

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2 7. Report regarding program. The department shall provide to the joint standing committee of the Legislature having jurisdiction over health and human services matters 3 4 on or before January 15th of each year, and at such other times as the committee requests, data pertaining to the aggregate number of prescriptions of each drug required to be 5 6 included in the program, the number of prescribers participating in the program categorized by specialty, any historical trends or patterns in prescribing practices within 7 8 the State, any progress in the implementation of information sharing agreements 9 authorized by subsection 4-A and any other information pertaining to the work of the program as requested by the committee that is reasonably available to the department, as 10 11 long as all information reasonably likely to reveal the patient or the prescriber or other person who is the subject of the information has been removed. 12

SUMMARY

14 This bill addresses the opiate crisis in Maine by:

15 1. Allowing funds from property forfeited pursuant to a criminal forfeiture action to 16 be assigned by the court, upon the request of the investigating or prosecuting agency, to a 17 law enforcement agency in this State that provides case management and other social 18 services to persons with substance use disorders;

Clarifying that the Class B crimes of aggravated furnishing of scheduled drugs and
 aggravated trafficking or furnishing of counterfeit drugs are for the death of another
 person, whose death was caused by drugs furnished by the defendant; and

Requiring the Department of Health and Human Services to provide an annual
 report to the joint standing committee of the Legislature having jurisdiction over health
 and human services matters regarding the Controlled Substances Prescription Monitoring
 Program, including the number of prescribers participating and trends in prescription
 practices.