

BILL ANALYSIS

C.S.H.B. 3480
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Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently there is no uniform means or single location for emergency medical services personnel or other health officials to track and share overdose information. C.S.H.B. 3480 seeks to connect public health and public safety entities with overdose mapping technology that will allow them to share and review overdose data. This will provide clarity on where there may be a large distribution of controlled substances and allow for appropriate action to take place.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3480 amends the Health and Safety Code and Local Government Code to require, respectively, a local health authority or law enforcement agency to enter into a participation agreement with an entity that maintains a computerized system for mapping overdoses of one or more controlled substances for public safety purposes and to require emergency medical services personnel operating within the geographical jurisdiction of a local health authority or law enforcement agency, as applicable, that has entered into such an agreement who responds to an overdose incident to report information about the incident as soon as possible to the local health authority or law enforcement agency, as applicable, that has entered into the agreement. The bill defines "overdose" for these purposes as an acute condition caused by abuse or misuse of a controlled substance evidenced by symptoms such as extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death.

C.S.H.B. 3480 requires the report to include, if possible:

- the date and time of the overdose incident;
- the approximate location of the overdose incident, using:
 - an address;
 - the latitude and longitude of the location; or
 - the location data from a cellular device;
- whether an opioid antagonist was administered, and if so, the number of doses and the type of delivery; and
- whether the overdose was fatal or nonfatal.

The bill exempts emergency medical services personnel who report information about an overdose incident in good faith from civil or criminal liability for making the report. The bill restricts a law enforcement agency's use of information received from a report to mapping

overdose locations for public safety purposes and makes information in the report confidential and exempt from disclosure under state public information law.

C.S.H.B. 3480 requires a local health authority or law enforcement agency to provide information received from such reports to the entity with which the authority or agency has a participation agreement for purposes of entering the information into the computerized system. The bill establishes the following with respect to such reports:

- the local health authority or law enforcement agency is not required to provide information received from those reports to the entity with which the authority or agency has a participation agreement if the entity does not maintain an overdose map that includes the controlled substance;
- a local health authority, a law enforcement agency, or an employee of a local health authority or law enforcement agency is not subject to civil or criminal liability for providing information received from a report to an entity pursuant to a participation agreement; and
- information provided to an entity pursuant to a participation agreement is confidential and not subject to disclosure under state public information law.

The bill's provisions relating to the participation agreements do not waive sovereign immunity to suit or liability.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3480 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced authorized a local health authority or a law enforcement agency located in a county with a population of more than 2 million to enter into a participation agreement with an entity that maintains a computerized system for mapping overdoses for public safety purposes, the substitute requires instead that all local health authorities and law enforcement agencies enter into a participation agreement with an entity that maintains a computerized system for mapping overdoses of one or more controlled substances for those purposes.

The substitute replaces the requirement in the introduced for a local health authority or law enforcement agency that has entered into a participation agreement to solicit and accept information regarding overdoses occurring in the county with a requirement for emergency medical services personnel operating within the geographical jurisdiction of a local health authority or law enforcement agency, as applicable, that has entered into a participation agreement and who responds to an overdose incident to report information about the overdose as soon as possible to the local health authority or law enforcement agency. The substitute includes a provision establishing that this reporting requirement is satisfied by reporting information to either of those entities.

The substitute omits the following from the list of required information regarding an overdose incident that was present in the introduced:

- the suspected controlled substance involved in the overdose incident;
- whether the person who overdosed was transported to the hospital;
- whether the overdose involved the operation of a motor vehicle;
- whether multiple persons were involved in the overdose incident; and
- the sex and approximate age of each person receiving treatment for an overdose.

Moreover, whereas the introduced required the GPS coordinates or approximate location of the overdose incident, the substitute requires instead that the approximate location of the overdose

incident be reported using an address, the latitude and longitude of the location, or the location data from a cellular device.

The substitute retains the requirement for a local health authority or law enforcement agency to provide the relevant information to the entity with which the authority or agency has a participation agreement but includes a provision absent from the introduced establishing that the authority or agency is not required to provide information regarding a particular controlled substance if the entity does not maintain an overdose map that includes the controlled substance.

The substitute includes provisions absent from the introduced establishing that:

- a local health authority, a law enforcement agency, or an employee of a local health authority or law enforcement agency is not subject to civil or criminal liability for providing information received under the bill to an entity pursuant to a participation agreement; and
- the bill's provisions requiring participation agreements do not waive sovereign immunity to suit or liability.

The substitute omits the provision from the introduced establishing that Health and Safety Code provisions requiring notice and authorization for the electronic disclosure of protected health information do not apply to the information reported under the bill. Instead, the substitute includes a provision making information provided to an entity pursuant to a participation agreement under the bill confidential and exempt from disclosure under state public information law.

The substitute includes a definition of "overdose," whereas the introduced did not.

Whereas the introduced included an effective date that provided for the possible immediate effect of the bill's provisions, contingent on the bill receiving the requisite constitutional vote, the substitute provides only for the bill to take effect September 1, 2023, with no possibility for immediate effect.