



# Ohio Legislative Service Commission

## Bill Analysis

Andrea Holmes

### **S.B. 57\***

130th General Assembly

(As Reported by S. Public Safety, Local Government and Veterans Affairs)

**Sens.** Manning, Jones, Lehner, Hughes, Burke

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## **BILL SUMMARY**

- Establishes a pilot project in Lorain County pursuant to which qualified emergency responders who serve in that County may obtain and administer naloxone to a person suffering from an apparent opioid-related overdose in order to revive the person.
- Specifies that the pilot program will commence on August 1, 2013, and terminate on July 31, 2014.
- Specifies that a licensed health professional, qualified emergency responder, emergency medical service organization, law enforcement agency, firefighting agency, or registered nurse who participates in the pilot program, acts in good faith, and does not act with malicious purpose, in bad faith, or in a wanton or reckless manner is not subject to civil liability for acts committed in compliance with the pilot program.
- Specifies that the individuals or entities listed in the preceding dotpoint are not subject to action by a professional licensing board or criminal prosecution if the conduct of the individual or entity was in compliance with the pilot program.
- Requires the Lorain County Coroner to provide, or to designate one or more licensed health professionals or registered nurses to provide, training to emergency responders in recognizing and responding to an opioid overdose and to provide

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\* This analysis was prepared before the report of the Senate Public Safety, Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

emergency responders who satisfactorily complete the training a letter indicating that completion.

- Requires emergency medical service organizations, law enforcement agencies, and firefighting agencies to maintain a record of the receipt and use of naloxone by qualified emergency responders who receive and use naloxone under the provisions of the bill.
- Requires emergency medical service organizations, law enforcement agencies, or firefighting agencies that maintain a record described in the preceding dotpoint to send monthly reports containing the information in the record to the Lorain County Narcan Task Force, the Lorain County Coroner, and the Director of the Ohio Department of Health.
- Requires the Lorain County Coroner to develop a uniform standardized reporting form to be used by emergency medical service organizations, law enforcement agencies, and firefighting agencies to make the monthly reports described in the preceding dotpoint.
- Requires the Lorain County Narcan Task Force and the Ohio Department of Health to each conduct a separate study of the effectiveness of the pilot project and to each prepare a separate report that contains the Task Force's or Department's findings and certain specified recommendations.
- Requires the Lorain County Narcan Task Force and the Ohio Department of Health to each send a copy of the required report described in the preceding dotpoint to the Governor, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and the Director of the Department of Alcohol and Drug Addiction Services not later than November 1, 2014.

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## CONTENT AND OPERATION

### Lorain County pilot program

The bill establishes a pilot project in Lorain County pursuant to which "qualified emergency responders" who serve in that county may obtain and "administer" naloxone to a person suffering from an apparent opioid-related overdose in order to revive the person. The pilot program will commence on August 1, 2013, and terminate on July 31, 2014.<sup>1</sup> (See "**Definitions**" below for definition of terms in quotes.)

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<sup>1</sup> Section 1(B).



## Pilot program participants generally not subject to civil liability

### Licensed health professionals

During the pilot program, a "licensed health professional" who is authorized to prescribe naloxone, if acting with reasonable care, may prescribe, dispense, or personally furnish naloxone to any qualified emergency responder without being subject to "civil liability," "action by a professional licensing board," or "criminal prosecution" if the qualified "emergency responder," before the naloxone is prescribed, dispensed, or furnished, signs an affidavit stating that the qualified emergency responder will act in good faith and the naloxone will be used only for the administration of the naloxone to a person suffering from an apparent opioid-related overdose in order to revive the person. The immunity from civil liability described in this paragraph is subject to the restrictions described under "**Circumstances where immunity from civil liability does not apply**," below.<sup>2</sup> (See "**Definitions**" below for definition of terms in quotes.)

### Qualified emergency responders

A qualified emergency responder is not subject to civil liability, action by a professional licensing board, or criminal prosecution for any of the following conduct:<sup>3</sup>

(1) During the pilot program, the qualified emergency responder, acting in good faith, obtains naloxone or a prescription for naloxone from a licensed health professional or obtains naloxone pursuant to a prescription from a licensed health professional as described above in "**Licensed health professionals**," so that the qualified emergency responder may obtain and use the naloxone for the purposes described in the next paragraph;

(2) During the pilot program, the qualified emergency responder, acting in good faith, administers naloxone obtained from a licensed health professional or obtained pursuant to a prescription from a licensed health professional as described above in "**Licensed health professionals**," to a person suffering from an apparent opioid-related overdose in order to revive the person.

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<sup>2</sup> Section 1(C).

<sup>3</sup> Section 1(D)(1).



The immunity from civil liability described in the preceding paragraph is subject to the restrictions described under "**Circumstances where immunity from civil liability does not apply**," below.<sup>4</sup>

### **Emergency medical service organizations, law enforcement agencies, and firefighting agencies**

If, during the pilot program, a qualified emergency responder who serves an emergency medical service organization, law enforcement agency, or firefighting agency engages in conduct described above in (1) and (2) under "**Qualified emergency responders**," the organization or agency is not subject to civil liability, action by a professional licensing board, or criminal prosecution for that conduct of the qualified emergency responder. The immunity from civil liability described in this paragraph is subject to the restrictions described under "**Circumstances where immunity from civil liability does not apply**," below.<sup>5</sup>

### **Circumstances where immunity from civil liability does not apply**

The immunity from civil liability provided to a licensed health professional, qualified emergency responder, emergency medical service organization, law enforcement agency, or firefighting agency described above under "**Pilot program participants generally not subject to civil liability**" or provided to a licensed health professional or registered nurse as described below under "**Coroner, licensed health professional, or registered nurse who provides training not subject to civil liability**" does not apply if the conduct of the licensed health professional, qualified emergency responder, emergency medical service organization, law enforcement agency, firefighting agency, or registered nurse, whichever is applicable, was with malicious purpose, in bad faith, or in a wanton or reckless manner.<sup>6</sup>

### **Training for emergency responders**

The Lorain County Coroner must provide, or must designate one or more licensed health professionals or registered nurses to provide, training to emergency responders in recognizing and responding to an opioid overdose. The response training must include, but is not limited to, training in the administration of naloxone to a person suffering from an apparent opioid-related overdose in order to revive the person. The Lorain County Coroner must provide to each emergency responder who satisfactorily completes the training a letter indicating satisfactory completion of the

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<sup>4</sup> Section 1(D)(2).

<sup>5</sup> Section 1(E).

<sup>6</sup> Section 1(F).



training. An emergency responder is not a qualified emergency responder for purposes of this bill unless the emergency responder has received the training described in this paragraph. The training described in this paragraph must be made available to each emergency responder who obtains approval of the emergency medical service organization, law enforcement agency, or firefighting agency served by the responder. The training must be made available at any time on or after the effective date of this bill and prior to the end of the pilot program.<sup>7</sup>

**Coroner, licensed health professional, or registered nurse who provides training not subject to civil liability**

If the Lorain County Coroner, a licensed health professional, or a registered nurse provides to any emergency responder training of the type described in the preceding paragraph or a letter indicating satisfactory completion of that training, or if the Lorain County Coroner designates any licensed health professional or registered nurse to provide such training to any emergency responder, the Coroner, professional, or nurse is not subject to civil liability, action by a professional licensing board, or criminal prosecution for any conduct of the emergency responder who, in good faith, properly obtains or administers naloxone under the provisions of this bill. The immunity from civil liability described in this paragraph is subject to the restrictions described above under "**Circumstances where immunity from civil liability does not apply**" above.<sup>8</sup>

**Records of receipt and use of naloxone**

If a qualified emergency responder who serves an emergency medical service organization, law enforcement agency, or firefighting agency properly obtains naloxone from a licensed health professional or properly obtains naloxone pursuant to a prescription from a licensed health professional under the provisions of the bill, the emergency medical service organization, law enforcement agency, or firefighting agency must maintain a record of the receipt and use of the naloxone. The record must include all of the following for each qualified emergency responder who serves the organization or agency and obtains naloxone in that manner:<sup>9</sup>

(1) The identity of the qualified emergency responder;

(2) The amount of naloxone obtained in that manner by the qualified emergency responder;

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<sup>7</sup> Section 1(G)(1).

<sup>8</sup> Section 1(G)(2).

<sup>9</sup> Section 1(H)(1).



(3) The licensed health professional who prescribed, dispensed, or personally furnished the naloxone to the qualified emergency responder in that manner;

(4) If the qualified emergency responder properly administers any of the naloxone under the provisions of the bill, the identity of the responder, the date of the administration, the amount administered, the circumstances of the administration, the individual to whom the naloxone was administered, and the outcome of the administration.

### **Monthly reports**

The bill requires the Lorain County Coroner to develop a uniform standardized reporting form to be used by emergency medical service organizations, law enforcement agencies, and firefighting agencies to make the monthly reports described in this paragraph.<sup>10</sup> Each emergency medical service organization, law enforcement agency, or firefighting agency that maintains a record described above under "**Records of receipt and use of naloxone**" must send monthly reports containing the information in the record to the Lorain County Narcan Task Force, the Lorain County Coroner, and the Director of the Ohio Department of Health. Each report sent to the Task Force, the Coroner, and the Director must cover one calendar month, must contain the information in the record that pertains to that month, must be prepared on the uniform standardized reporting form developed by the Lorain County Coroner, and must be sent to the Task Force, the Coroner, and the Director not later than the fifth day of the calendar month following the month covered by the report. A report must be sent for each calendar month during which the pilot project is in existence.<sup>11</sup>

### **Study of the effectiveness of the pilot program**

Upon receipt of the reports described above under "**Monthly reports**," the Lorain County Narcan Task Force and the Ohio Department of Health each must conduct a separate study of the effectiveness of the pilot project and each must prepare a separate report that contains the Task Force's or Department's findings and recommendation as to whether the pilot project should be continued in Lorain County, whether similar pilot projects should be established in counties other than Lorain County, whether state law should be amended to provide for naloxone distribution and use by emergency responders throughout the state in a manner similar to the distribution and use in

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<sup>10</sup> Section 1(I).

<sup>11</sup> Section 1(H)(2).



Lorain County under the pilot project, or whether the pilot project should expire without extension, expansion, or adoption on a statewide basis.<sup>12</sup>

Not later than November 1, 2014, the Lorain County Narcan Task Force and the Ohio Department of Health each must send a copy of the required report described in the preceding paragraph to the Governor, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and the Director of the Department of Alcohol and Drug Addiction Services.<sup>13</sup>

## Definitions

As used in the bill:<sup>14</sup>

**"Action by a professional licensing board"** means any sanction or other action by a professional licensing board for conduct that pertains or relates to obtaining or possessing naloxone, or administering naloxone to a person suffering from an apparent opioid-related overdose.

**"Administer"** means the direct application of a drug to a person by inhalation.

**"Civil liability"** means liability in a civil action for injury, death, or loss to person or property that allegedly is caused by, results from, or is related to the administration of naloxone to a person suffering from an apparent opioid-related overdose.

**"Criminal prosecution"** means prosecution for a violation of any of the following based on conduct that pertains or relates to obtaining or possessing naloxone or to administering naloxone to a person suffering from an apparent opioid-related overdose:

(1) Any prohibition under R.C. Chapter 2925. (drug offenses), 3719. (controlled substances), or 4729. (pharmacists; dangerous drugs) or under any other provision of the Revised Code;

(2) Any prohibition under any ordinance of a municipal corporation that is substantially similar to any prohibition described above in (1).

**"Dispense"** means to sell, leave with, give away, dispose of, or deliver.<sup>15</sup>

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<sup>12</sup> Section 1(H)(3).

<sup>13</sup> Section 1(H)(3).

<sup>14</sup> Section 1(A)(1) through (10).

<sup>15</sup> By reference to R.C. 3719.01(E) (not in the bill).



"Emergency medical service organization" means a public or private organization using first responders, EMTs-basic, EMTs-I, or paramedics, or a combination of first responders, EMTs-basic, EMTs-I, and paramedics, to provide emergency medical services.<sup>16</sup>

"Emergency responder" means any of the following who serves in Lorain County:

(1) A person who is any of the following:

(a) A "first responder," defined as an individual who holds a current, valid certificate to practice as a first responder.<sup>17</sup>

(b) An "emergency medical technician-basic" or "EMT-basic," defined as an individual who holds a current, valid certificate to practice as an emergency medical technician-basic.<sup>18</sup>

(c) An "emergency medical technician-intermediate" or "EMT-I," defined as an individual who holds a current, valid certificate to practice as an emergency medical technician-intermediate.<sup>19</sup>

(d) An "emergency medical technician-paramedic" or "paramedic," defined as an individual who holds a current, valid certificate to practice as an emergency medical technician-paramedic.<sup>20</sup>

(2) A "peace officer," includes a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract; member of a police force employed by a Metropolitan Housing Authority; member of a police force employed by a Regional Transit Authority; state university law enforcement officer; enforcement agent of the Department of Public Safety; employee of the Department of Taxation to whom investigation powers have been delegated; employee of the Department of Natural Resources who is a natural resources law enforcement staff officer, a forest officer, a preserve officer, a wildlife officer, a park officer, or a state watercraft officer; individual designated to perform law enforcement duties under R.C. 511.232 (park districts),

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<sup>16</sup> By reference to R.C. 4765.01(H) (not in the bill).

<sup>17</sup> By reference to R.C. 4765.01(A) (not in the bill).

<sup>18</sup> By reference to R.C. 4765.01(B) (not in the bill).

<sup>19</sup> By reference to R.C. 4765.01(C) (not in the bill).

<sup>20</sup> By reference to R.C. 4765.01(D) (not in the bill).

1545.13 (park commission employees), or 6101.75 (policing districts); veterans' home police officer; special police officer employed by a Port Authority; police constable of any township; police officer of a township or joint police district; a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations and that is required to be under a security program and is governed by aviation security rules of the Transportation Security Administration of the United States Department of Transportation; the House of Representatives Sergeant at Arms if the House of Representatives Sergeant at Arms has arrest authority; an Assistant House of Representatives Sergeant at Arms; the Senate Sergeant at Arms; an Assistant Senate Sergeant at Arms; an officer or employee of the Bureau of Criminal Identification and Investigation who has been awarded a certificate by the executive director of the Ohio Peace Officer Training Commission attesting to the officer's or employee's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program and who is providing assistance upon request to a law enforcement officer or emergency assistance to a peace officer; a State Fire Marshal law enforcement officer; and, for the purpose of arrests within those areas, for the purposes of R.C. Chapter 5503., and the filing of and service of process relating to those offenses witnessed or investigated by them, the Superintendent and troopers of the State Highway Patrol.<sup>21</sup>

(3) A "*firefighter*," defined as any regular, paid, or volunteer member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.<sup>22</sup>

"*Licensed health professional*" means any of the following who serves in Lorain County:

(1) A physician who is authorized under R.C. Chapter 4731. to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(2) A physician assistant who holds a certificate to prescribe issued under R.C. Chapter 4730.;

(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under R.C. 4723.48.

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<sup>21</sup> By reference to R.C. 2935.01(B) (not in the bill).

<sup>22</sup> By reference to R.C. 149.43(A)(7) (not in the bill).



"Qualified emergency responder" means any emergency responder who has received a letter described above under **"Training for emergency responders"** indicating satisfactory completion of the training described in that division.

"Registered nurse" means a registered nurse licensed under R.C. Chapter 4723. who serves in Lorain County.

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## COMMENT

Section 1(G)(2) specifies that, subject to conditions described in Section 1(F), if the *Lorain County Coroner, a licensed health professional, or a registered nurse* provides to any emergency responder training of the type described above under **"Training for emergency responders,"** or a letter indicating satisfactory completion of that training, or if the Lorain County Coroner designates any licensed health professional or registered nurse to provide such training to any emergency responder, the *Coroner, professional, or nurse* is not subject to civil liability, action by a professional licensing board, or criminal prosecution for any conduct of the emergency responder who, in good faith, properly obtains or administers naloxone under the provisions of the bill (emphasis added). However, Section 1(G)(2) also specifically states that the immunity from civil liability described in this paragraph is subject to the conditions within Section 1(F).

Section 1(F) specifically lists the individuals and entities that are subject to the conditions described in that division, but fails to list the Lorain County Coroner or licensed health professionals in the context of Section 1(G)(2); instead it only references registered nurses. It is unclear whether those conditions apply to the Lorain County Coroner or a licensed health professional acting under Section 1(G)(2).

Additionally, the reference to division (D)(2) within Section 1(C) is an error; it should be a reference to division (D)(1)(b).

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## HISTORY

ACTION	DATE
Introduced	02-27-13
Reported, S. Public Safety, Local Gov't & Veterans Affairs	---

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