

# LEGISLATIVE bulletin

To: All School Committee Members and Superintendents  
From: Stephen J. Finnegan Esq., MASC General Counsel  
Re: An Act Relative to Substance Use, Treatment, Education and Prevention. H.4056  
Date: March 16, 2016

## **GOVERNOR BAKER HAS SIGNED THE OPIOID BILL H. 4056**

On March 14, 2016 Governor Baker signed into law H.4056, the Opioid Bill. Following please find a summary of the educationally pertinent provisions of the Opioid Legislation (H.4056). MASC worked with the legislative leadership to ameliorate the mandate provisions of H.4056. For example, the screening of students for substance abuse was reduced to a verbal screening and only at two grade levels to be recommended by DESE. Most importantly, the verbal screening provision is subject to appropriation, and if no appropriation is approved this provision of the law is not mandated. Finally, MASC worked hard to secure subsection (e) that provides no liability caused by an act or omission resulting from the implementation of this section. The substance abuse screening will not be implemented until the 2017-2018 school year. Parents or students may opt out of the screening. Also, MASC recommended a Good Samaritan provision regarding the administration of Naloxone to protect school employees, among others from liability.

**Section 15 of H.4056 amending c.71, s.96 (see below and on the MASC website [www.masc.org](http://www.masc.org)), expands the terms of the existing statute as found in your 2015 MGL book. Particularly, the law requires that schools shall notify the parents or guardians of all attending students of the substance abuse policy and shall post the policy on the school's website. MASC recommends that such posting, if you have not already done so, be placed on your website as soon as possible, and that you inform school parents of its placement on the website. The revised law also requires that the substance abuse policies shall be filed with DESE. We are working with Department to review our substance abuse policy, which will soon be forwarded to you. We do not intend, at this time, to address matters relating to the verbal screenings until later, due to its 2017-2018 implementation date.**

The following is a summary of the education related provisions of the Opioid legislation culled from the 42 pages of the bill.

Sections 11, 12 and 13 of H.4056 add a representative of Massachusetts recovery high schools with expertise in adolescent substance use disorders to the safe and supportive schools commission as found in MGL c.69, s.1P.

Section 14 of the Opioid Law amends c. 71, s.13D by adding the following paragraph: A driver education course shall include a module on the science related to addiction and addictive substances, including the impact of psychoactive substances on the brain and the effect of such substances on a person while operating a motor vehicle.

Section 15 amends MGL c.71, s.96 by striking out Section 96, and inserting in place thereof the following two sections:

Section 96. Each public school shall have a policy regarding substance use prevention and the education of its students about the dangers of substance abuse. The school shall notify the parents or guardians of all students attending the school of the policy and shall post the policy on the school's website. The policy, and any standards and rules enforcing the policy, shall be prescribed by the school committee in conjunction with the superintendent or the board of trustees of a charter school.

The department of elementary and secondary education, in consultation with the department of public health, shall provide guidance and recommendations to assist schools with developing and implementing effective substance use prevention and abuse education policies and shall make such guidance and recommendations publicly available on the department's website. Guidance and recommendations may include educating parents or guardians on recognizing warning signs of substance abuse and providing available resources. Guidance and recommendations shall be reviewed and regularly updated to reflect applicable research and best practices.

Each school district and charter school shall file its substance use prevention and abuse education policies with the department of elementary and secondary education in a manner and form prescribed by the department.

Section 97. (a) Subject to appropriation, each city, town, regional school district, charter school or vocational school

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district shall utilize a verbal screening tool to screen pupils for substance use disorders. Screenings shall occur on an annual basis and occur at 2 different grade levels as recommended by the department of elementary and secondary education, in consultation with the department of public health. Parents or guardians of a pupil to be screened pursuant to this section shall be notified prior to the start of the school year. Verbal screening tools shall be approved by the department of elementary and secondary education, in conjunction with the department of public health. De-identified screening results shall be reported to the department of public health, in a manner to be determined by the department of public health, not later than 90 days after completion of the screening.

(b) A pupil or the pupil's parent or guardian may opt out of the screening by written notification at any time prior to or during the screening. A city, town, regional school district, charter school or vocational school district utilizing a verbal screening tool shall comply with the department of elementary and secondary education's regulations relative to consent.

(c) Any statement, response or disclosure made by a pupil during a verbal substance use disorder screening shall be considered confidential information and shall not be disclosed by a person receiving the statement, response or disclosure to any other person without the prior written consent of the pupil, parent or guardian, except in cases of immediate medical emergency or a disclosure is otherwise required by state law. Such consent shall be documented on a form approved by the department of public health and shall not be subject to discovery or subpoena in any civil, criminal, legislative or administrative proceeding. No record of any statement, response or disclosure shall be made in any form, written, electronic or otherwise, that includes information identifying the pupil.

(d) The department of elementary and secondary education shall notify each school district in writing of the requirement to screen students for substance use disorders pursuant to this section. School districts with alternative substance use screening policies may, on a form provided by the department, opt out of the required verbal screening tool. The form shall be signed by the school superintendent and provide a detailed description of the alternative substance use program the district has implemented and the reasons why the required verbal screening tool is not appropriate for the district.

(e) No person shall have a cause of action for loss or damage caused by an act or omission resulting from the implementation of this section.

Section 33. Subsection (a) of section 222 of said Chapter 111 is amended by adding the following paragraph: The bureau of substance abuse services shall provide educational materials on the dangers of opiate use and misuse to those persons participating in the annual head injury safety program required by this section. The educational materials shall also be distributed in written form to all students participating in an extracurricular activity prior to the commencement of their athletic seasons.

SECTION 37. Chapter 112 of the General Laws, is hereby amended by inserting after section 12EE the following section:

Section 12FF. Any person who, in good faith, attempts to render emergency care by naloxone or any other opioid antagonist, as defined in section 19B of chapter 94C, to a person reasonably believed to be experiencing an opiate-related overdose, shall not be liable for acts or omissions resulting from the attempt to render this emergency care; provided, however, that this section shall not apply to acts of gross negligence or willful or wanton misconduct.

SECTION 63. Each city, town, regional school district, charter school or vocational school district shall implement the verbal substance use disorder screenings required by section 97 of chapter 71 of the General Laws by the 2017-2018 school year.

SECTION 64. The department of elementary and secondary education, in consultation with the department of public health, shall create a notice and opt out form relative to substance use disorder screenings required by section 97 of chapter 71 of the General Laws.

SECTION 66. Not later than July 1, 2016, the Massachusetts Association of School Committees, Inc., the Massachusetts Association of School Superintendents, Inc. and the Massachusetts Charter Public School Association, Inc. shall each provide an update to the department of elementary and secondary education, the joint committee on education, and the joint committee on mental health and substance abuse on their ongoing efforts to ensure compliance with the requirements set forth in section 96 of chapter 71 of the General Laws.

**TUESDAY, APRIL 26**

**DAY ON THE HILL**

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