

Task force passes chemical endangerment changes and cigarette taxes



The Alabama Health Care Improvement Task Force met at the Montgomery County Health Department on Wednesday, Nov. 18, 2015. (Mike Cason|mcason@al.com)



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Members of the governor's health improvement task force approved two reforms to the state's chemical endangerment law, which has led to the arrests of at least 479 women who used drugs during pregnancy.

The first would create a defense for women who are properly using a medication prescribed by a doctor. The second change would require prosecutors to offer women drug treatment instead of prosecution. If a woman failed to complete treatment, she could be prosecuted and potentially sent to prison.

Dr. Darlene Traffenstedt, chair of the subcommittee that proposed the changes, said the district attorney's association would support the amendments if a bill was presented to the legislature.

The task force has been considering several proposed changes to the law, including abolishing it altogether as applied to drug use during pregnancy. But members dropped that proposal when it became clear it wouldn't gain the support of prosecutors and law enforcement. The current proposal is a compromise that is acceptable to members of the medical and law enforcement communities, Traffenstedt said.

"As it stands today, there is no protection for a woman who takes a controlled substance as prescribed by a doctor," she said. "A hospital would be required to report that to DHR, and then law enforcement. The change that we have proposed here makes it an affirmative defense."

Carol Ratcliffe, a Samford University nursing professor and co-leader of the Alabama Health Action Coalition, said she could

understand the need for the changes because she took a prescribed controlled substance during one of her pregnancies.

"I just think it's appalling that a patient would not be allowed to be cared for by a licensed practitioner without having to worry about arrest," she said.

Some members of the panel had concerns that the proposed amendments wouldn't go far enough. The practice of arresting and prosecuting women for drug use during pregnancy has been condemned by most medical associations and civil liberties groups.

"As a task force, it should be something we should stand behind, to put the healthcare back in the providers hands and take it out of the [district attorneys'] hands," said Stephanie McGilvray, a task force member and past president of the Alabama Society of Physician Assistants.

Traffanstedt compiled more than 200 documents to support changes to the chemical endangerment law, and said it was more controversial than any other subcommittee proposal – including a 75 cent tax increase on cigarettes.

That increase would raise the state's cigarette tax to \$1.42 per pack. The increase could raise \$200 million, according to Traffanstedt. Most of it would be earmarked for a Medicaid Trust Fund, with the rest going to substance abuse programs within the Department of Mental Health.

Sen. Gerald Dial, R-Lineville, reminded task force members how difficult it was to raise cigarette taxes last year. This year, the Alabama Medicaid Agency is already seeking \$157 million to implement a new care system that officials hope will save money over the long run. The costs of expanding Medicaid – a move unanimously supported by the task force – could increase those costs significantly in coming years.

Members of the task force noted that increasing taxes tends to decrease the amount of smoking, which would improve the overall health of Alabama residents.

All proposals will be shaped into legislation, which will then need to pass both houses of the legislature and gain the governor's signature.

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