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**FINAL REPORT OF THE
SENATE STUDY COMMITTEE ON THE
CREATION OF A GEORGIA METHCHECK DATABASE**

COMMITTEE MEMBERS:

Senator Gloria Butler, Chairperson
District 55

Senator Johnny Grant
District 25

Senator Bill Hamrick
District 30

Senator Jack Murphy
District 27

Senator Valencia Seay
District 34

INTRODUCTION

The Senate Study Committee on the Creation of a Georgia MethCheck Data Base was created by Senate Resolution 1093 during the 2008 Legislative Session. The purpose of the study committee was to determine the overall efficacy of purchasing a centralized database of pharmacy sales of products containing pseudoephedrine, which is one of the essential ingredients of the illegal drug methamphetamine.

Senator Gloria Butler of the 55th chaired the study committee, and held three meetings at the state Capitol building. The other members of the committee were Senator Johnny Grant of the 25th, Senator Bill Hamrick of the 30th, Senator Jack Murphy of the 27th and Senator Valencia Seay of the 34th.

BACKGROUND

The manufacture and use of the drug methamphetamine, commonly known as meth, is an alarming trend across the country. In 2005, the Georgia General Assembly made strides towards solving the problem by passing House Bill 216, which placed significant limits on the retail purchase of products containing pseudoephedrine, one of the essential ingredients in the production of meth. The law now prohibits someone from purchasing more than three packages of any product containing pseudoephedrine as an active ingredient, such as Sudafed, and they must be sold in blister packaging from behind the counter. A conviction for violating any of the over-the-counter retail sale restrictions carries a misdemeanor charge with a possible \$500 fine upon the first conviction. A second or subsequent conviction requires up to six months in prison and a fine of up to \$1,000. While these measures have proven effective, the meth problem is far from solved.

Meth is a powerfully addictive man-made stimulant that interferes with the release of dopamine in the brain. The “high” associated with meth abuse lasts six to twelve hours. Meth-related arrests in Georgia increased 132 percent between 2001 and 2005, with a disproportionately higher number of arrests and lab busts concentrated in the rural northern counties.

According to the federal Drug Enforcement Administration, meth abuse has been the fastest growing drug problem in Georgia for the past five years.¹ In part, this may be due to metropolitan Atlanta’s status as a transportation hub. An encouraging statistic is that the number of clandestine meth labs busted by law enforcement has sharply declined since House Bill 216 became effective. In 2006, there were 156 reported meth lab incidents in Georgia; in 2007, that number dropped to 55. Unfortunately, this decrease in meth produced in Georgia may encourage international and out-of-state meth suppliers to import and distribute greater quantities within our state.

During the 2008 legislative session, Senator Gloria Butler introduced Senate Bill 457 in an attempt to create a statewide electronic monitoring system of pseudoephedrine product sales. The bill, which did not pass out of committee due to concerns about cost and necessity, sought state funding in order to purchase and use the MethCheck program. MethCheck was invented by Appriss, Inc., a government technology provider based in Louisville, Kentucky. It is a real-time electronic reporting system that allows pharmacy employees to view each customer’s purchasing history at the point of sale and send that information to law enforcement. Under the provisions of Senate Bill 457, all pharmacies would have been required to maintain a written or electronic log of transactions involving the sale of products containing ephedrine, pseudoephedrine, and phenylpropanolamine, and enter all such information into the MethCheck system.

¹ <http://www.usdoj.gov/dea/pubs/states/georgia.html>

A federal law that became effective in 2006 placed stringent limits on sales of products containing pseudoephedrine, which preempts more lenient state laws.² Nationwide, all products containing pseudoephedrine must be kept either behind the counter or in a locked display, and retailers are prohibited from selling more than 3.6 grams per day or 9 grams per month to a single consumer. In addition, stores that sell such products are required to maintain a record of each pseudoephedrine transaction and ensure that every employee is familiar with the law.³

Currently, Kentucky, Oklahoma and Arkansas have statutes requiring pharmacies to keep an electronic log of all pseudoephedrine purchases, though none of these statutes mention MethCheck by name.⁴ In particular, Kentucky has seen an impressive rise in meth-related arrests due to the increased monitoring abilities afforded by using the MethCheck system. Police officers credit MethCheck for providing the information they needed to make a record number of meth-related arrests during a 2006 pilot program.

STUDY COMMITTEE MEETINGS

September 16, 2008

The first meeting of the MethCheck study committee convened on September 16, 2008. Sergeant Rick Stinson of the Columbus Metro Narcotics Drug task force testified that his organization trains law enforcement officers and distributes narcotics information statewide. The federal Drug Enforcement Agency is useful in helping clean up meth lab sites here in Georgia. He does not have much knowledge regarding the MethCheck program, but he supports any initiative that aids the fight against methamphetamine. Methamphetamine is especially dangerous because anyone can be involved in meth production; he recently arrested a nurse in a hospital cardiac unit. One concern is that the bill places all responsibility for MethCheck in the Georgia Bureau of Investigation (GBI). While the GBI is a great resource, the reality is that local task forces need some of that authority and local crime labs need some of the funding. He's also concerned that MethCheck will take funding away from other necessary services, like local crime labs.

Senator Bill Hamrick questioned Sergeant Stinson on how much of the meth problem in Georgia is homegrown versus from Mexico. According to Sgt. Stinson, there are two different types of meth: meth ice and lab-created meth. Ice is very difficult to create in a homegrown lab, so therefore most of it comes from Mexico. Ice is also more highly addictive. The task force has seen a drastic drop in anhydrous meth labs due to recent pseudoephedrine legislation, but other methods of making meth are becoming popular. The problem is that anyone could walk into a Wal-Mart and walk out with a meth lab. Any product that has amphetamines in it can be used to make meth, not just products like Sudafed. The pseudoephedrine bill was significant, because it limits the amount of cold and flu products one can buy. Now, instead of buying a large amount in one place, meth cookers are forced to buy small amounts from many different locations; this is how MethCheck would help. Unfortunately, such products are still available for sale over the internet.

Senator Murphy asked about methamphetamine laws in other Southern states. Mr. Stinson testified that there has been a decline in the number of meth labs here in Georgia, but that probably only indicates a greater amount of imported meth. He does not think Alabama has a law limiting pseudoephedrine, but our laws will apply to incidences in Georgia. The city of Columbus, for instance, must deal with both Georgia and Alabama laws.

² 21 U.S.C. 802

³ 21 U.S.C. 830

⁴ Ky. Rev. State Ann. § 218A.1446; Okla. Stat. tit. 63, § 2-309C; Ark. Code § 5-64-1106

Senator Grant expressed concern that MethCheck would have no authority or effect on the purchase of meth ingredients over the internet or from abroad. Mr. Stinson believes that's true, but any source that state authorities can control will help reduce meth production. Let federal authorities worry about inter-state and international drug transportation issues.

Senator Butler asserted that the legislature would try to be as frugal as possible in implementing a program like MethCheck so as not to take money from proven areas of law enforcement success, like crime labs. The purpose of this committee is to ask, do we want to be as technologically advanced as we can be in the fight against meth? Additional connectivity and ease of access to purchase records can't be a bad thing. Technology is the future, and Georgia should be at the forefront if we can afford to do so.

Sergeant Stinson ended his testimony by saying that he considers himself a sort of mechanic with a toolbox, and he needs as many tools as he can get because he never knows which ones will be needed for each job. MethCheck could be a useful tool for law enforcement.

Sergeant Jesse Hambrick of the Douglas County Sheriff's office and director of the Douglas County Meth Task Force gave a presentation on Georgia's meth problem. Sergeant Hambrick started the state's first citizen's meth task force. He has spoken and conducted trainings all over the country on this issue, and is a huge advocate for an electronic database, because the written records are antiquated. 90 percent of meth imported into Georgia is Mexican ice; however, homegrown production is also a problem.

Over time, passing laws at the federal and state level that control the necessary ingredients to producing meth do work. Atlanta has the unfortunate distinction of being the meth ice distribution center of the eastern United States. Seizures of meth have skyrocketed since 2000, which is problematic considering how much meth probably was not found. There has been a drop in meth lab seizures due to federal and state laws governing the sale of pseudoephedrine. Another less encouraging reason is that too many law enforcement agencies do not know how to deal with meth lab investigations, and so choose not to pursue them. Also, many meth labs are not being reported to the DEA, the agency that handles the statistics. However, the number of users is not declining because they are addicted, so Hispanic ice is filling the gap.

Meth production only takes a couple of hours. There are three homegrown methods of making meth, but all of them require ephedrine. In his opinion, the best way to stop homegrown meth production is controlling pseudoephedrine sales better (i.e. make it a Schedule II regulated drug). Meth production is extremely dangerous because there are three highly explosive ingredients: lithium, ethyl alcohol, and ammonia fertilizer. Mixing them together, then introducing oxygen will cause an explosion.

Sergeant Hambrick has several concerns about MethCheck. Dissemination of information is important; if we have MethCheck, how will law enforcement agencies get that information? If GBI has authority over MethCheck, they may not know who to call on a local level. A database will likely help law enforcement identify those directly involved with the illegal purchase of pseudoephedrine. The publicity of the law itself will help by scaring meth addicts. MethCheck sounds like it would make a positive impact on the number of meth labs in Georgia.

October 21, 2008

At the beginning of the second study committee meeting, Senator Butler emphasized that the current system in Georgia for recording purchases of drugs that can be used to make methamphetamine is ineffective, because it is merely a paper sign-up sheet. Georgia needs a better system, specifically an electronic record system.

Rick Allen, Deputy Director of the Georgia Drug and Narcotics Agency testified that his agency is charged with inspection of anywhere in the state where drugs are sold, including pharmacies and wholesalers. One problem with written log books of drug purchases is that they are too often illegible, making it almost impossible to follow a purchaser from one pharmacy to another. It is very difficult to track people who buy in more than one place. Handwritten lists are cumbersome and time-consuming, and identification is often not required. The new federal law regarding pseudoephedrine is slightly better because ID is required, but it's still a written log. There is no good way to track people using these logs, which will only become useful once a searchable database is created. An electronic log would be very helpful. He has seen the real-time MethCheck log in action in the Kentucky pilot program and was impressed. His agency is in favor of an electronic log with a central database, though it sounds expensive.

Senator Murphy asked whether making Sudafed a prescription-only drug would help the situation. According to Mr. Allen, it would help, but it would also make getting the drug much more inconvenient for the public because then only pharmacies could sell it. The requirement that a log be kept on all Sudafed purchases is federal. The problem is that state authorities don't have access to those federal logs. Also, the crime is federal, so Georgia courts don't have jurisdiction. Sudafed is already a controlled substance in Georgia, but it is on the exempt list, meaning that lower doses can be sold over the counter. The legislature decides whether drugs are controlled, exempt, etc. in Code Section 16-13-71 of the O.C.G.A.

Senator Butler asked how often law enforcement checks the written logs. Mr. Allen stated that most logs never get checked, because there's too much time involved. The system in place is almost useless because no one can use it until someone spends a huge amount of time putting the information in a database, and even then the information would be late.

David Hamby, Southeast Regional Coordinator of the national Pharmaceutical Drug Crimes Initiative, is a 30-year law enforcement veteran and has worked for many years with methamphetamine. He came to Atlanta due to its status as a high drug trafficking area, where meth is a huge problem. The best way to find small time meth cooks is to control the sale of the ingredients, because huge quantities are needed to make meth. The written logs are difficult to use. Laws limiting the sale of pseudoephedrine have helped with domestic production, but that led to an upsurge in Mexican production and imports. Domestic super labs are becoming a larger problem; super labs generally create more meth than many small labs combined.

The number of meth lab busts in Georgia increased in 2008 from the previous year. The Atlanta area is becoming the new Southwest border for drug trafficking. The problem with tracking is that it can be only a bandage solution. Law enforcement does not have the resources to track every pharmacy. It will take a team of at least 25 law enforcement agents just to chase down people who buy too much pseudoephedrine, which is a waste of resources. If other states make pseudoephedrine a prescription drug, meth manufacturing will consequently increase here. Tracking systems by themselves will not solve the problem, but they will help in the short term. The best solution is making pseudoephedrine a prescription drug; it is the only proven way to make a significant impact.

Oklahoma has been successful with a stop-sales program. Georgia would not need a tracking system if pseudoephedrine is prescription only. Oregon is the only state so far that has made Sudafed a prescription drug, and they've had huge success with eliminating labs. Senator Hamrick asked about starting a PMP (prescription monitoring program) in Georgia. According to Mr. Hamby, PMPs help with doctor-shoppers who go to many doctors in order to get many prescriptions for a controlled substance. States with these programs have had great success, and there is a federal grant available for such programs.

Mandy Hagan is the Director for Government Relations of the Consumer Healthcare Products Association (CHPA), which is a trade association that represents major manufacturers of OTC drugs. The 2006 COMBAT federal law prevented direct consumer access to pseudoephedrine products by placing them in locked cabinets or behind the counter. CHPA supported this initiative because they recognized the huge meth problem. The Midwest has the highest number of lab incidents. Electronic real-time, stop-sale tracking is already mandatory in Arkansas, Oklahoma and Kentucky, and it is being considered in Missouri and Kansas. Tennessee has a different tracking system that does not stop sales, but rather puts all sales into a central database so that only the top offenders are monitored. If Georgia puts pseudoephedrine on the prescription list, consider the cost to the state for Medicaid and SCHIP patients due to additional office visits. The truly uninsured will be most negatively affected if pseudoephedrine is made a prescription drug.

Kathy Kuzava and Jason Bragg of the Georgia Food Industry Association testified that many small retailers, such as Food Lion and Harvey's, in smaller communities have decided it's too much of a burden to carry pseudoephedrine products, so they have ceased to provide them by choice. In their experience, written logs are not being checked by law enforcement. Pseudoephedrine has been shown to be more effective as a decongestant than other active ingredients, so there needs to be ready access for consumers. Senator Murphy commented that it seems like even the limited amount of pseudoephedrine allowed to be purchased per day is too much, since a lack of meaningful tracking allows the limit to be flouted.

Jim Aquisto, currently the director of the MethCheck program at Appriss, Inc., is a retired law enforcement officer who testified about the ineffectiveness of limiting pseudoephedrine purchases. Even the federal law allows people to buy enough pseudoephedrine to have 10 pills a day, every day for 30 days. MethCheck is an electronic real-time monitoring system, integrated with the point of service at every pharmacy, and then reports to law enforcement through an internet terminal. Law enforcement can be notified immediately. Because it is real-time, the system allows the pharmacist to stop the sale immediately. MethCheck went online in Kentucky statewide on June 1, 2008. MethCheck also has a nationwide contract with CVS pharmacies, and a Kroger grocery store contract is forthcoming. Preliminary results are that MethCheck has blocked 24,000 grams of pseudoephedrine from being sold in Kentucky. If all that pseudoephedrine had been used to make meth, street value would be \$1.2 million. Mr. Aquisto gave a demonstration of the program. The bottom line is that you cannot block sales of pseudoephedrine if you do not have a real-time tracking system.

November 18, 2008

Senator Butler opened the final study committee meeting by stating that the current system doesn't work as it should, and Georgia deserves a better one, which means an electronic one that can be easily monitored by law enforcement. However, MethCheck is not the only option. Senator Seay believes that meth is a huge problem in Georgia, and technology is the way to go. Funding is always an issue, so we need to use our dollars in the most efficient way.

Inspector Fred Stephens represented the Georgia Bureau of Investigation in testifying that the federal government is doing a good job of handling the international and interstate trafficking of meth. However, in-state clandestine labs are now on the rise again because the federal law enforcement agencies are doing so well with Mexican imports. "Smurfing" is where individuals go to many different stores and sign for pseudoephedrine until they have enough to make meth, and GBI is seeing a huge amount of this activity.

The GBI has been looking at a program created and used by Tennessee, called TEMIS (Tennessee Methamphetamine Information System), which helps identify purchases of pseudoephedrine. Within that system, they have identified Georgia residents purchasing pseudoephedrine in Tennessee. However, any tracking system is probably a bandage solution.

Georgia is the only state in the Southeast without a prescription monitoring statute, which would monitor the sales of scheduled drugs. Right now, there is no one checking the sign-in lists at pharmacies. Using the Tennessee program would be virtually no cost, and their law enforcement agency has offered its use to Georgia at very little cost because it is currently operating under a federal grant. This program would monitor every county, and every pharmacy would be required by law to submit the sales to the state system. Right now, Georgia does not have a law requiring pharmacies to keep an electronic list.

Special Agent in Charge Rusty Grant of the Canton, Georgia MethWatch program testified that there is a need to track pseudoephedrine purchases accurately. Although the Tennessee program would be provided free of cost, the GBI would still need to make it compatible with the systems in place now in each county. The system would need to be password-protected and web-based so that any law enforcement agent can access the information.

Georgia is more lenient in its pseudoephedrine laws than most surrounding states. For instance, Georgia is unique in that stores other than pharmacies, such as convenience and grocery stores, may sell pseudoephedrine products. If the General Assembly passes a prescription drug monitoring program, then there may be some federal grants available to help with funding needs. Another law that would help is making pseudoephedrine a Schedule V drug so that it would be covered by the prescription monitoring program.

The Mexican meth traffickers are truly businessmen who sell their entire product, whereas the clandestine lab people are primarily users who sell mainly to fund more meth production. The reason that there were fewer meth lab busts in 2006 and 2007 was that Mexican meth was cheaper and of higher quality due to new federal and state laws that made it more difficult to buy meth ingredients. Due to better federal control over the importation of meth via the southwestern U.S. border, clandestine labs are coming back into relevance. Also, the Mexican government has been more helpful on that end. Several things still need to be done in Georgia: (a) Pseudoephedrine needs more purchase restrictions, and (b) Purchase logs should be required to be electronic because smaller stores will not do so otherwise.

Senator Seay expressed thanks for the wealth of information presented, stating that it's good to know that the GBI is working on addressing this problem. Senator Butler asked about the costs associated with implementing the Tennessee system. She is encouraged by this information; the last time she spoke with GBI, she was told that MethCheck was not needed since lab busts were decreasing. Mr. Grant stated that the servers will probably cost between \$10,000 and 15,000, plus administrative costs of about \$75,000. However, the program itself would be free.

Senator Butler conducted an informal survey of several stores in Georgia over the summer. She found that Wal-Mart has an electronic monitoring system, but they only use it in-house to keep track of Wal-Mart purchases. She is so pleased that the GBI is moving forward with an electronic monitoring system, even though it isn't MethCheck. She wants to work with the GBI to come up with the best legislation. Senator Seay agreed that there is definitely a need for some type of system to prevent Georgia from being a hub for meth trafficking. Senator Butler adjourned the study committee.

RECOMMENDATIONS

Based on its findings, the Senate Study Committee on the Creation of a Georgia MethCheck Data Base recommends that Senate Bill 56 pass and be signed into law during the 2009 Legislative Session. SB 56 will create the Georgia StopMeth Log, which will be Georgia's real-time electronic log maintained by the Georgia Bureau of Investigation (GBI) to record pharmacy and retailer purchases of products containing ingredients used to make methamphetamine. GBI may use any federal, state or other grant funds to establish and operate the StopMeth Log.

Pharmacies and retailers must enter purchase information for products used to make methamphetamine, and log information must include the purchaser's name, address, and date of birth, as well as the quantity purchased. All purchasers of such products must be at least 18 years old and will be required to show a valid photo ID and sign a written or electronic receipt.

Any person violating this law will be guilty of a misdemeanor, and each purchase made in violation of this law will constitute a separate offense.

GBI must make the StopMeth Log available over the internet if there are funds available to do so, though they may conduct pilot projects in areas which include less than the entire state. In order to prevent people from conducting purchases at multiple locations in a short period of time, the Log will have the capability to calculate both state and federal limits on ephedrine, pseudoephedrine and phenylpropanolamine purchases, to match similar identification information, and to alert pharmacies and retailers of potential illegal purchases.