

# S.B. NO. 1433

JAN 23 2025

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## A BILL FOR AN ACT

RELATING TO HARM REDUCTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that sharing injection  
2 equipment among individuals who use drugs is a major  
3 contribution to the spread of human immunodeficiency viruses,  
4 hepatitis B, hepatitis C, and other serious bloodborne  
5 infections. Act 152, Session Laws of Hawaii 1992, authorized  
6 the establishment of the first state-funded sterile needle and  
7 syringe exchange program in the United States. The program has  
8 aimed to prevent the transmission of bloodborne pathogens and to  
9 provide individuals who inject drugs with services such as  
10 referrals to appropriate health and social services, thereby  
11 reducing overall disease burden in Hawaii.

12           Over the past thirty years, extensive scientific research  
13 has confirmed that syringe exchange programs nationwide  
14 effectively reduce disease transmission, increase access to  
15 addiction treatment, improve public safety, lower healthcare  
16 costs, and do not lead to an increase in drug use or crime.  
17 Research has also helped identify the most effective approaches

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1 in what are now commonly referred to as "syringe services  
2 programs."

3 A 2020 report by the Centers for Disease Control and  
4 Prevention, United States Department of Health and Human  
5 Services, concluded that syringe programs that restrict syringe  
6 distribution to one-to-one exchange are less effective than  
7 needs-based distribution programs that provide sterile needles  
8 and syringes to syringe exchange participants in quantities  
9 sufficient to reduce the likelihood of needles and syringes  
10 being shared or reused. The Centers for Disease Control and  
11 Prevention supports needs-based approaches to syringe  
12 distribution based on evidence that it is the best practice for  
13 reducing new HIV and viral hepatitis infections. The Centers  
14 for Disease Control and Prevention concludes that, compared to  
15 one-to-one exchanges, needs-based syringe distribution results  
16 in less syringe sharing and reuse, lower risk of infection, and  
17 is not associated with increased unsafe syringe disposal.  
18 Research shows that syringe distribution programs are safe,  
19 effective, cost-saving, do not increase drug use or crime, and  
20 do not cause people to begin injecting drugs. However, Hawaii  
21 and Florida remain the only states that impose a strict one-to-  
22 one sterile needle and syringe exchange limit. This Act will

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1 authorize the State's syringe exchange program to transition  
2 from a one-to-one exchange model to a needs-based distribution  
3 system.

4 Syringes and needles are not the only injection equipment  
5 that contribute to the spread of infection. Any materials used  
6 in the preparation or administration of drugs may potentially  
7 transmit pathogens or cause injury when shared or reused.

8 The Model Syringe Services Program Act, released by the  
9 White House Office of National Drug Control Policy in December  
10 2021, recommends extending protection from criminal liability  
11 under drug paraphernalia statutes to syringe program staff,  
12 volunteers, and participants while implementing or accessing  
13 program services intended to reduce transmission of bloodborne  
14 infections. This Act makes amendments consistent with those  
15 recommendations.

16 In alignment with recommendations for improving  
17 effectiveness, the State's sterile needle and syringe exchange  
18 program also facilitates access to critical health services  
19 necessary for participants. These include educating  
20 participants about the dangers of contracting human  
21 immunodeficiency virus through sharing drug injection equipment  
22 and offering counseling services and referrals for treatment of

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1 substance use disorders. Furthermore, individuals who do not  
2 inject drugs but are marginalized often seek harm reduction  
3 information, supplies, and referrals to other services through  
4 the program. This Act will remove the requirement that the  
5 program exclude non-injection drug users, ensuring the program  
6 can assist individuals in need when resources are available.

7 Syringe services programs also play a crucial role in  
8 collecting and safely disposing of used injection equipment.  
9 Safe disposal occurs most effectively if program participants  
10 batch all used injection equipment for safe disposal by syringe  
11 services programs. However, participants may be reluctant to  
12 batch used injection equipment for safe disposal if they risk  
13 criminal penalties for drug residue found on used equipment.  
14 Extending protection to program participants from arrest and  
15 prosecution for possession of drug residue on used syringes and  
16 needles will increase the likelihood of proper disposal, thereby  
17 reducing public health risk. Program staff regularly encourage  
18 participants to batch and return all used injection equipment to  
19 the syringe exchange program, not only for the safety of the  
20 community, but also to assist in ensuring the program's  
21 continuity. For these reasons, the Model Syringe Services  
22 Program Act recommends providing immunity from criminal

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1 penalties for possession of a controlled substance or other  
2 illicit drug due to the presence of residue in a hypodermic  
3 needle or syringe or other supplies.

4 The purpose of this Act is to improve the safety,  
5 effectiveness, and cost savings of the State's sterile needle  
6 and syringe exchange program by amending it based on current  
7 recommendations from the Centers for Disease Control and  
8 Prevention and the White House Office of National Drug Control  
9 Policy's model legislation.

10 SECTION 2. Section 325-111, Hawaii Revised Statutes, is  
11 amended as follows:

12 1. By adding five new definitions to be appropriately  
13 inserted and to read as follows:

14 "Authorized objects" means objects authorized by the  
15 department, by rule, for dissemination to syringe exchange  
16 participants for the purpose of reducing infection or injury.

17 "Authorized objects" may include, but are not limited to,  
18 cookers, cottons, or ties.

19 "Needs-based distribution" means a syringe distribution  
20 practice that provides sterile needles and syringes to syringe  
21 exchange participants in quantities sufficient to reduce the  
22 likelihood of needles and syringes being shared or reused.

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1        "Program staff" means an employee of the department or its  
2 designee who is specifically tasked with procuring, handling,  
3 transporting, and providing sterile needles, syringes, and  
4 authorized objects and services to syringe exchange  
5 participants.

6        "Residue" means any controlled substance, as the term is  
7 defined in section 329-1, in an amount less than 0.05  
8 milliliter.

9        "Syringe exchange participant" means an injection drug user  
10 who receives a sterile needle and syringe pursuant to the  
11 program."

12        2. By repealing the definition of "participant".

13        [~~"Participant" means an injection drug user who exchanges~~  
14 ~~a sterile needle and syringe unit pursuant to the program."]~~

15        SECTION 3. Section 325-113, Hawaii Revised Statutes, is  
16 amended to read as follows:

17        "[~~§~~325-113 [~~§~~]    **Operation of the program.** (a) The  
18 program shall be operated for the purpose of:

19        (1) Preventing the transmission of the human  
20                immunodeficiency virus, the hepatitis B virus, the  
21                hepatitis C virus, and other [~~blood borne diseases,~~]  
22                bloodborne infections; and

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1           (2) Providing [~~injection~~] drug users with referrals to  
2           appropriate health and social services.

3           (b) The program shall provide for maximum security of  
4 exchange sites and equipment, including a full accounting of the  
5 number of needles and syringes [~~in use,~~] distributed, the number  
6 in storage, the number of used needles and syringes collected,  
7 and any other measure that may be required to control the use  
8 and dispersal of sterile needles and syringes; provided that a  
9 syringe exchange participant may exchange used needles and  
10 syringes at any exchange site if more than one site is  
11 available.

12           (c) The program shall provide [~~for a one to one exchange,~~  
13 ~~whereby the participant shall receive one sterile needle and~~  
14 ~~syringe unit in exchange for each used one.~~] needs-based  
15 distribution of sterile needles and syringes.

16           (d) The program [~~shall provide procedures for the~~  
17 ~~screening of participants to prevent non injection drug users~~  
18 ~~from participating in the programs.~~] may provide screening  
19 procedures to allow non-injection drug users to safely and  
20 effectively receive services, exclusive of syringes and needles,  
21 from the program.

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1 (e) The department and its designees shall keep records to  
2 identify and authorize [~~persons employed by the department or~~  
3 ~~its designees~~] program staff to have access to needles,  
4 syringes, or authorized objects, and the program's records.

5 (f) The program shall include services to:

6 (1) Educate the syringe exchange participant about the  
7 dangers of contracting [~~HIV infection~~] bloodborne  
8 pathogens through [~~needle sharing~~] needle- and other  
9 materials-sharing practices; and

10 (2) Offer substance [~~abuse~~] use disorder treatment  
11 referral and counseling services to all non-injection  
12 drug users and syringe exchange participants.

13 (g) The program shall compile research data on behavioral  
14 changes, enrollment in [~~drug abuse~~] substance use disorder  
15 treatment, counseling, and education programs, service  
16 provision, disease transmission, and other information that may  
17 be relevant and useful to assist in the planning and evaluation  
18 of efforts to combat the spread of [~~blood borne diseases~~]  
19 bloodborne infections."

20 SECTION 4. Section 325-114, Hawaii Revised Statutes, is  
21 amended to read as follows:

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1 " ~~[f]~~ §325-114 ~~[f]~~ ~~[Criminal liability.]~~ Liability.

2 (a) ~~[Exchanges under the sterile needle and syringe exchange~~  
3 ~~program]~~ Possession or delivery of needles or syringes shall not  
4 constitute an offense under section 329-43.5 for [the  
5 participant or for the employees of the department or its  
6 designees.] program staff acting in the course and scope of  
7 official duties; provided that delivery is limited to other  
8 program staff or to syringe exchange participants pursuant to  
9 this part. Possession of needles or syringes shall not  
10 constitute an offense under section 329-43.5 for syringe  
11 exchange participants participating in a program visit.

12 (b) Possession or delivery of authorized objects shall not  
13 constitute an offense under section 329-43.5 for program staff  
14 acting in the course and scope of official duties; provided that  
15 delivery is limited to other program staff or to syringe  
16 exchange participants pursuant to this part. Possession of  
17 authorized objects shall not constitute an offense under section  
18 329-43.5 for syringe exchange participants participating in a  
19 program visit. The department shall establish, by rule, a  
20 specific list of authorized objects, which may be updated from  
21 time to time as needed.

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1        (c) Possession or delivery of used needles or syringes  
2 containing residue shall not constitute a drug possession  
3 offense under section 712-1242(1)(c), 712-1243, 712-1245(1)(c),  
4 712-1246.5, 712-1248(d), or 712-1249, for syringe exchange  
5 participants within        month after their last participation in  
6 a program visit; and shall not constitute such an offense for  
7 program staff acting in the course and scope of official duties;  
8 provided that any delivery, whether by syringe exchange  
9 participants or by program staff, shall be made only to program  
10 staff pursuant to this part.

11        (d) Subsections (a), (b), and (c) shall only apply to  
12 needles, syringes, or authorized objects possessed by syringe  
13 exchange participants or program staff; or to needles, syringes,  
14 or authorized objects delivered between program staff, or  
15 between a syringe exchange participant and program staff.  
16 Subsection (a), (b), or (c) shall not apply to any needles,  
17 syringes, or authorized objects possessed by anyone other than  
18 syringe exchange participants or program staff, nor shall these  
19 exceptions apply to any needles, syringes, or authorized objects  
20 delivered between syringe exchange participants, between a  
21 syringe exchange participant and an individual who is neither a  
22 syringe exchange participant nor program staff, between

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1 individuals who are neither syringe exchange participants nor  
2 program staff, or between such an individual and program staff.

3 (e) A law enforcement officer who, acting in good faith,  
4 arrests or charges a person who is thereafter determined to be  
5 exempt from an offense pursuant to this section shall not be  
6 subject to civil liability for the mere arrest or filing of  
7 charges.

8 ~~[-(b) Nothing]~~ (f) Except as specifically provided in this  
9 section, nothing in this part provides immunity from prosecution  
10 to any person for violation of any law prohibiting or regulating  
11 the use, possession, dispensing, distribution, or promotion of  
12 controlled substances, dangerous drugs, detrimental drugs, or  
13 harmful drugs. ~~[Nothing]~~ Except as specifically provided in  
14 this section, nothing in this part provides immunity from  
15 prosecution to any person for violation of ~~[sections]~~ section  
16 329-41, 329-42, or 712-1241 through ~~[712-1249.6.]~~ 712-1249.7."

17 SECTION 5. Section 325-116, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[+]§325-116[+] **Reports.** The department, on or before  
20 January 1 of each year, shall submit a report to the oversight  
21 committee. The report shall include:

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- 1           (1) Information as to the number of syringe exchange  
2           participants served [~~and~~], the number of needles and  
3           syringes distributed[+], and the number of used  
4           needles and syringes collected;
- 5           (2) A demographic profile of the syringe exchange  
6           participants served, including but not limited  
7           to: age, sex, ethnicity, area of residence,  
8           occupation, types of drugs used, length of drug use,  
9           and frequency of injection;
- 10          (3) Impact of the program on needle and syringe sharing  
11          and other high risk behavior;
- 12          (4) Data on syringe exchange participants regarding HIV  
13          testing, counseling, drug treatment, and other social  
14          services, including referrals for HIV testing and  
15          counseling and for [~~drug abuse~~] substance use disorder  
16          treatment;
- 17          (5) Impact on the transmission of HIV infection among  
18          injection drug users;
- 19          (6) Impact on behaviors that caused syringe exchange  
20          participants to be at risk for HIV transmission such  
21          as frequency of drug use and needle sharing;

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- 1 (7) An assessment of the cost-effectiveness of the program  
2 versus direct and indirect costs of HIV infection; and  
3 (8) Information on the percentage of persons served  
4 through treatment programs for injection drug users  
5 funded through the department that were attributed to  
6 needle exchange referrals.

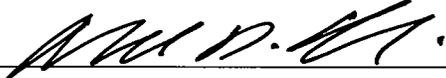
7 The report shall address the strengths and weaknesses of  
8 the program, the advisability of its continuation, amendments to  
9 the law, if appropriate, and other matters that may be helpful  
10 to the oversight committee in evaluating the program's  
11 efficacy."

12 SECTION 6. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect upon its approval.

15

16

INTRODUCED BY: 

17

BY REQUEST

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**Report Title:**

Department of Health; Sterile Needle and Syringe Exchange Program; Needs-Based Distribution; Non-Injection Drug User Participation; Liability

**Description:**

Repeals the one-to-one syringe limit for the needle exchange program. Authorizes the Sterile Needle and Syringe Exchange Program to provide needs-based distribution. Authorizes non-injection drug user participation in the Program. Modifies liability for exchange program participants, staff, and law enforcement officers.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO HARM REDUCTION.

PURPOSE: To authorize the State's sterile needle and syringe exchange program to transition from one-to-one exchange to needs-based distribution; authorize non-injection drug user participation in the program; and modify liability for the program participants, staff, and law enforcement officers.

MEANS: Amend sections 325-111, 325-113, 325-114, and 325-116, Hawaii Revised Statutes.

JUSTIFICATION: Compared to one-to-one syringe programs, needs-based syringe distribution is associated with less sharing of syringes, less reuse of syringes, lower risk of infections, and is not associated with increased odds of unsafe syringe disposal.

Permitting the program to provide non-injection drug users with harm reduction information, harm reduction supplies, and referrals to other health and social services can improve the health of non-injecting drug users and protect public health.

Liability protections for the program participants, staff, and law enforcement officers are added or modified to increase the likelihood that injection drug users will use the program, thereby decreasing sharing, reuse, and unsafe disposal of used syringes and needles, and decreasing risk of transmission of human immunodeficiency viruses, hepatitis B, hepatitis C, and other serious bloodborne infections.

Impact on the public: Improved protective factors against infectious diseases.

Impact on the department and other agencies:  
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: HTH 100.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.