
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 (HIV), 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 health care
16 costs, and do not lead to an increase in drug use or crime.
17 Research has also helped identify the most effective approaches



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, lowers 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



1 one-to-one sterile needle and syringe exchange limit. This Act
2 will authorize the State's syringe exchange program to
3 transition from a one-to-one exchange model to a needs-based
4 distribution system.

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

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

17 In alignment with recommendations for improving
18 effectiveness, the State's sterile needle and syringe exchange
19 program also facilitates access to critical health services
20 necessary for participants. These include educating
21 participants about the dangers of contracting HIV through



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

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



1 community, but also to assist in ensuring the program's
2 continuity. For these reasons, the Model Syringe Services
3 Program Act recommends providing immunity from criminal
4 penalties for possession of a controlled substance or other
5 illicit drug due to the presence of residue in a hypodermic
6 needle or syringe or other supplies.

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

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

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

17 "Authorized objects" means objects authorized by the
18 department for dissemination to syringe exchange participants
19 for the purpose of reducing infection or injury; provided that
20 the objects are incidental to syringe exchange. "Authorized



1 objects" may include, but are not limited to, cookers, cottons,
2 or ties.

3 "Needs-based distribution" means a syringe distribution
4 practice that provides sterile needles and syringes to syringe
5 exchange participants in quantities sufficient to reduce the
6 likelihood of needles and syringes being shared or reused.

7 "Program staff" means an employee of the department or its
8 designee who is specifically tasked with procuring, handling,
9 transporting, and providing sterile needles, syringes, and
10 authorized objects and services to syringe exchange
11 participants.

12 "Residue" means the amount of controlled substance, as that
13 term is defined in section 329-1, remaining in a syringe and
14 needle after the plunger stopper is fully depressed.

15 "Syringe exchange participant" means an injection drug user
16 who receives a sterile needle and syringe pursuant to the
17 program."

18 2. By repealing the definition of "participant".
19 [~~"Participant" means an injection drug user who exchanges a~~
20 ~~sterile needle and syringe unit pursuant to the program."]~~



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

3 "[~~§~~§325-113~~§~~] **Operation of the program.** (a) The
4 program shall be operated for the purpose of:

5 (1) Preventing the transmission of the human
6 immunodeficiency virus, ~~[the]~~ hepatitis B virus,
7 hepatitis C virus, and other ~~[blood-borne diseases;]~~
8 bloodborne infections; and

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

11 (b) The program shall provide for maximum security of
12 exchange sites and equipment, including a full accounting of the
13 number of needles and syringes ~~[in use,]~~ distributed, the number
14 in storage, the number of used needles and syringes collected,
15 and any other measure that may be required to control the use
16 and dispersal of sterile needles and syringes; provided that a
17 syringe exchange participant may exchange used needles and
18 syringes at any exchange site if more than one site is
19 available.

20 (c) The program shall provide ~~[for a one-to-one exchange,~~
21 ~~whereby the participant shall receive one sterile needle and~~



1 ~~syringe unit in exchange for each used one.]~~ needs-based
2 distribution of sterile needles and syringes.

3 (d) The program [~~shall provide procedures for the~~
4 ~~screening of participants to prevent non-injection drug users~~
5 ~~from participating in the programs.]~~ may provide screening
6 procedures to allow non-injection drug users to safely and
7 effectively receive services, exclusive of syringes and needles,
8 from the program.

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

13 (f) The program shall include services to:

14 (1) Educate the syringe exchange participant about the
15 dangers of contracting [~~HIV infection]~~ bloodborne
16 pathogens through [~~needle-sharing~~] needle- and other
17 materials-sharing practices; and

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



1 (g) The program shall compile research data on behavioral
 2 changes, enrollment in [~~drug abuse~~] substance use disorder
 3 treatment, counseling, and education programs, service
 4 provision, disease transmission, and other information that may
 5 be relevant and useful to assist in the planning and evaluation
 6 of efforts to combat the spread of [~~blood borne diseases.~~]
 7 bloodborne infections."

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

10 "~~[§]325-114[§]—Criminal liability.~~ Liability. (a)
 11 [~~Exchanges under the sterile needle and syringe exchange~~
 12 ~~program]~~ Possession or delivery of needles or syringes shall not
 13 constitute an offense under section 329-43.5 for [~~the~~
 14 ~~participant or for the employees of the department or its~~
 15 ~~designees.~~] program staff acting in the course and scope of
 16 official duties; provided that delivery is limited to other
 17 program staff or to syringe exchange participants pursuant to
 18 this part. Possession of needles or syringes shall not
 19 constitute an offense under section 329-43.5 for syringe
 20 exchange participants participating in a program visit.



1 (b) Possession or delivery of authorized objects shall not
2 constitute an offense under section 329-43.5 for program staff
3 acting in the course and scope of official duties; provided that
4 delivery is limited to other program staff or to syringe
5 exchange participants pursuant to this part. Possession of
6 authorized objects shall not constitute an offense under section
7 329-43.5 for syringe exchange participants participating in a
8 program visit. The department shall establish a specific list
9 of authorized objects, which may be updated from time to time as
10 needed.

11 (c) Possession or delivery of used needles or syringes
12 containing residue shall not constitute a drug possession
13 offense under section 712-1242(1)(c), 712-1243, 712-1245(1)(c),
14 712-1246.5, 712-1248(d), or 712-1249, for syringe exchange
15 participants within two months after their last participation in
16 a program visit; and shall not constitute an offense for program
17 staff acting in the course and scope of official duties;
18 provided that any delivery, whether by syringe exchange
19 participants or by program staff, shall be made only to program
20 staff pursuant to this part.



1 (d) Subsections (a), (b), and (c) shall only apply to
2 needles, syringes, or authorized objects possessed by syringe
3 exchange participants or program staff; or to needles, syringes,
4 or authorized objects delivered between program staff, or
5 between a syringe exchange participant and program staff.
6 Subsection (a), (b), or (c) shall not apply to any needles,
7 syringes, or authorized objects possessed by anyone other than
8 syringe exchange participants or program staff, nor shall
9 subsection (a), (b), or (c) apply to any needles, syringes, or
10 authorized objects delivered between:

- 11 (1) Syringe exchange participants;
12 (2) A syringe exchange participant and an individual who
13 is neither a syringe exchange participant nor program
14 staff;
15 (3) Individuals who are neither syringe exchange
16 participants nor program staff; or
17 (4) An individual who is neither a syringe exchange
18 participant nor program staff.

19 (e) A law enforcement officer who, acting in good faith,
20 arrests or charges a person who is thereafter determined to be
21 exempt from an offense pursuant to this section shall not be



1 subject to civil liability for the mere arrest or filing of
2 charges.

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

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

14 "[~~+~~]**§325-116**[~~+~~] **Reports.** The department, on or before
15 January 1 of each year, shall submit a report to the oversight
16 committee. The report shall include:

17 (1) Information as to the number of syringe exchange
18 participants served [and], the number of needles and
19 syringes distributed[+], and the number of used
20 needles and syringes collected;



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



1 funded through the department that were attributed to
2 needle exchange referrals.

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

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

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



Report Title:

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

Description:

Amends the distribution system of sterile needles and syringes under the Sterile Needle and Syringe Exchange Program from a one-to-one exchange system to a needs-based distribution system. Authorizes non-injection drug user participation in the Program. Modifies liability for Program participants, staff, and law enforcement officers. (SD2)

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