

JAN 17 2025

A BILL FOR AN ACT

RELATING TO OVERDOSE PREVENTION.

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

1 SECTION 1. The legislature finds that drug overdose deaths
2 are increasing in Hawaii, despite being preventable. According
3 to the United States Centers for Disease Control and Prevention
4 State Unintentional Drug Overdose Reporting System, five hundred
5 sixty-two people died of unintentional drug overdoses between
6 mid-2020 and late 2022 in Hawaii. In 2023, there were three
7 hundred sixty-four fatal drug overdoses in the State, of which
8 forty per cent were due to opioids.

9 The legislature further finds that overdose prevention
10 centers are places where people can safely use drugs and receive
11 harm reduction services and authorized objects. These centers
12 have operated in Europe, Canada, and Australia for over twenty
13 years, with no overdose deaths being reported in the centers.
14 According to the National Institute on Drug Abuse, overdose
15 prevention centers are associated with significant reductions in
16 many negative outcomes related to drug use, including public



1 drug use, sharing of drug paraphernalia, soft tissue injuries,
2 ambulance calls, emergency department visits, and crime.

3 The legislature additionally finds that overdose prevention
4 centers have recently been authorized in Michigan, Rhode Island,
5 and Vermont and in New York City.

6 Accordingly, the purpose of this Act is to:

- 7 (1) Establish criteria for the designation of overdose
8 prevention centers to prevent drug overdose and death,
9 prevent transmission of bloodborne pathogens, reduce
10 public drug use, and link persons who use drugs with
11 health and social services; and
- 12 (2) Provide immunity from state criminal prosecution for
13 persons using a designated overdose prevention center
14 and persons operating a designated overdose prevention
15 center.

16 SECTION 2. The Hawaii Revised Statutes is amended by
17 adding a new chapter to be appropriately designated and to read
18 as follows:

19 **"CHAPTER**

20 **OVERDOSE PREVENTION CENTERS**



1 § -1 **Definitions.** As used in this chapter, unless the
2 context otherwise requires:

3 "Authorized objects" means objects authorized by the
4 department, by rule, for dissemination to participants for the
5 purpose of reducing infection or injury including but not
6 limited to sterile injection equipment and supplies.

7 "Department" means the department of health.

8 "Director" means the director of health.

9 "Drugs" shall have the same meaning as "dangerous drugs" as
10 defined in section 711-1240.

11 "Harm reduction services" means providing authorized
12 objects, support, and education including but not limited to the
13 provision of sterile equipment for the preparation and
14 consumption of drugs; distribution of opioid antagonist
15 medication; first aid to monitor and treat potential overdoses;
16 education on safer consumption practices; secure disposal of
17 used syringes and other equipment that have been used for the
18 consumption of drugs; overdose prevention; use of opioid
19 antagonist medication; infection prevention; testing for and
20 treatment of infections; referrals to treatment for substance



1 use disorders; and services that are provided to prevent harms
2 associated with the use of drugs, specifically fatal overdose,
3 transmission of bloodborne pathogens, and soft tissue injuries.

4 "Overdose prevention center" or "center" means a facility
5 where persons who use drugs may consume pre-obtained drugs and
6 receive harm reduction services from health care professionals
7 and other staff persons pursuant to this chapter.

8 "Participant" means a person who enters an overdose
9 prevention center to use drugs and receive harm reduction
10 services and authorized objects pursuant to this chapter.

11 "Playground" means any public outdoor facility, including
12 any parking lot appurtenant thereto, that is intended for
13 recreation, with any portion thereof containing one or more
14 separate apparatus intended for the recreation of children,
15 including but not limited to sliding boards, swing sets, and
16 teeterboards.

17 "Pre-obtained drugs" means drugs that a participant
18 obtained prior to entry into an overdose prevention center.



1 "School" means any public or private preschool,
2 kindergarten, elementary, intermediate, middle, secondary, or
3 high school.

4 "Staff person" means an employee of the department or
5 center who is specifically tasked with procuring, handling,
6 transporting, or providing authorized objects and harm reduction
7 services to participants.

8 § -2 **Overdose prevention centers; designation.** (a) The
9 director may designate one or more facilities as overdose
10 prevention centers.

11 (b) The director shall establish standards, pursuant to
12 rules adopted by chapter 91, for the designation of an overdose
13 prevention center that shall include, at a minimum:

- 14 (1) Eligibility requirements to operate as a designated
15 overdose prevention center;
- 16 (2) Records management;
- 17 (3) Participant eligibility;
- 18 (4) Provision of harm reduction services to participants
19 including but not limited to:



- 1 (A) Education and training on overdose prevention and
2 response; proper disposal of used hypodermic
3 needles, syringes, and other potentially
4 infectious waste; and the risks of contracting
5 bloodborne infections through unsafe injection or
6 other drug use practices;
- 7 (B) Wound care;
- 8 (C) Referrals to appropriate health and social
9 services, including but not limited to substance
10 use disorder treatment, mental health services,
11 infectious disease testing, and other health
12 care;
- 13 (D) Authorized objects and other supplies intended to
14 reduce overdose, death, bloodborne pathogen
15 transmission, soft-tissue injury, and other
16 morbidity related to the use of drugs;
- 17 (E) Collection of used hypodermic needles and
18 syringes with secure hypodermic needs and syringe
19 disposal or destruction; and



- 1 (F) Methods or services to test participant's drugs
- 2 to identify the presence of potentially dangerous
- 3 drugs other than those of which the participant
- 4 is aware;
- 5 (5) Personal selection and oversight including but not
- 6 limited to:
 - 7 (A) Number and type of personnel needed, including
 - 8 qualifications and training;
 - 9 (B) Standards and criminal background checks to
 - 10 ensure the reputable and responsible character
 - 11 and fitness of all staff; and
 - 12 (C) Record keeping of staff who have access to the
 - 13 overdose prevention center's records and to
 - 14 needles, syringes, and other harm reduction
 - 15 supplies;
- 16 (6) Safety and security measures, including but not
- 17 limited to:
 - 18 (A) Continuous video monitoring and recording of the
 - 19 premises;
 - 20 (B) An alarm system;



- 1 (C) Exterior lighting;
- 2 (D) Enforcement of prohibitions against the sale or
- 3 distribution of illicit drugs in or immediately
- 4 adjacent to the centers; and
- 5 (E) Security requirements and restrictions regarding
- 6 waiting rooms; and
- 7 (7) Signage, including a prohibition on any image of a
- 8 cartoon character or other design likely to appeal to
- 9 children.

10 (c) The director shall determine a schedule for overdose
11 prevention centers to report to the department certain data and
12 provide proof of compliance with the standards developed under
13 subsection (b).

14 § -3 **Overdose prevention centers; location.** Designated
15 overdose prevention centers shall comply with all county zoning
16 ordinances, rule, or regulations; provided that no center shall
17 be permitted within seven hundred fifty feet of the real
18 property comprising a playground or school.



1 § -4 **Exception from criminal liability.** (a) Possession
2 of pre-obtained drugs by participants at an overdose prevention
3 center shall not constitute an offense under section 712-1234.

4 (b) Possession of authorized objects by participants at a
5 designated center shall not constitute an offense under section
6 329-43.5. Possession or delivery of authorized objects by staff
7 acting in the course and scope of their official duties shall
8 not constitute an offense under section 329-43.5.

9 (c) Possession or delivery of used needles or syringes
10 containing residual drugs shall not constitute an offense under
11 section 329-43.5, 712-1242(1)(c), or 712-1243 if done by
12 participants or staff acting in the course and scope of their
13 official duties; provided that any delivery of used needles or
14 syringes containing residual drugs, whether by participants or
15 staff, shall be made only to staff.

16 (d) Subsections (a), (b), and (c) shall apply only to acts
17 occurring inside or while entering or existing a designated
18 overdose prevention center.

19 (e) The mere fact that a property owner, lessor, or
20 sublessor of the property on which an overdose prevention center



1 or an entity operating an overdose prevention center allowed or
2 facilitated the activities under subsections (a), (b), or (c) to
3 occur on their property shall not constitute a criminal offense
4 under state law.

5 (f) The mere fact that an individual enters, exits, or
6 uses the services of a designated overdose prevention center
7 shall not constitute a criminal offense under state law.

8 (g) Nothing in this section shall be interpreted to
9 provide immunity from criminal prosecution for any activities
10 that are not conducted, permitted, and explicitly approved
11 pursuant to this chapter.

12 § -5 **Oversight committee.** (a) The director shall
13 appoint an overdose prevention center oversight committee to
14 provide assistance and advice in the oversight of designated
15 prevention centers and that shall periodically meet with the
16 director or the director's designee to examine available data
17 and monitor effectiveness of the overdose prevention centers.

18 (b) The committee may recommend procedures for announced
19 and unannounced inspections by the department, the committee, or



1 the department's or committee's designees, pursuant to this
2 chapter.

3 § -6 **Reports.** Each overdose prevention center shall, on
4 or before January 31 of each year, submit a report to the
5 overdose prevention center oversight committee that shall
6 include but not be limited to:

- 7 (1) The number of participants accessing overdose
8 prevention centers;
- 9 (2) Demographic information on participants, excluding
10 protected health information;
- 11 (3) The number of overdoses and the number of overdoses
12 reversed on site;
- 13 (4) The number of times emergency medical services were
14 contracted and responded for assistance;
- 15 (5) The number of deaths of participants, if any,
16 including any deaths that occurred enroute to medical
17 facilities;
- 18 (6) The number of times law enforcement was contacted and
19 responded to requests for assistance; and



1 (7) The number of participants referred to other services
2 and the types of services to which they were referred.

3 § -7 **Overdose prevention centers; termination.** The
4 director shall withdraw designation and cease operations of any
5 overdose prevention center if the center:

6 (1) Fails to meet the meet the standards established
7 pursuant to section -2;

8 (2) Fails to serve its intended purpose;

9 (3) Present an unacceptable risk to public health and
10 public safety; or

11 (4) Is no longer necessary.

12 § -8 **Rulemaking.** The department shall adopt rules
13 pursuant to chapter 91 necessary for the purposes of this
14 chapter. The rules shall establish procedures for notice and an
15 opportunity for a hearing prior to the withdrawal of a
16 designation of a facility as an overdose prevention center
17 pursuant to section -7."

18 SECTION 3. Section 329-43.5, Hawaii Revised Statutes, is
19 amended by amending subsections (d) and (e) to read as follows:



1 "(d) [~~It~~] Except for the purposes of advertising the
2 services of an overdose prevention center established pursuant
3 to chapter _____, it is unlawful for any person to place in any
4 newspaper, magazine, handbill, or other publication any
5 advertisement, knowing or under circumstances where one
6 reasonably should know, that the purpose of the advertisement,
7 in whole or in part, is to promote the sale of objects designed
8 or intended for use as drug paraphernalia. Any person who
9 violates this section is guilty of a class C felony and upon
10 conviction may be imprisoned pursuant to section 706-660 and, if
11 appropriate as provided in section 706-641, fined pursuant to
12 section 706-640.

13 (e) Subsections (a) and (b) shall not apply to a person
14 who is authorized to:

15 (1) Acquire, possess, cultivate, use, distribute, or
16 transport cannabis pursuant to the definition of
17 "medical use" under section 329-121, while the person
18 is facilitating the medical use of cannabis by a
19 qualifying patient; [~~or~~]



1 (2) Dispense, manufacture, or produce cannabis or
 2 manufactured cannabis products pursuant to and in
 3 compliance with chapter 329D, while the person is
 4 facilitating the medical use of cannabis by a
 5 qualifying patient pursuant to part IX of chapter
 6 329[~~+~~]; or

7 (3) Acquire, possess, or dispense authorized objects to
 8 participants at an overdose prevention center pursuant
 9 to chapter .

10 For the purposes of this section, "authorized objects"
 11 shall have the same meaning as in section -1. "

12 SECTION 4. Section 712-1240.1, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "**§712-1240.1 Defense to promoting.** (1) It is a defense
 15 to prosecution for any offense defined in this part that the
 16 person who possessed or distributed the dangerous, harmful, or
 17 detrimental drug did so under authority of law as a
 18 practitioner, as an ultimate user of the drug pursuant to a
 19 lawful prescription, or as a person otherwise authorized by law.



1 (2) It is an affirmative defense to prosecution for any
2 marijuana-related offense defined in this part that the person
3 who possessed or distributed the marijuana was authorized to
4 possess or distribute the marijuana for medical purposes
5 pursuant to part IX of chapter 329.

6 (3) It is an affirmative defense to prosecution for the
7 offense of promoting a dangerous drug in the second degree that
8 the person who possessed or distributed the dangerous drug did
9 so as incidental to the possession, delivery, or disposal of
10 used needles or syringes containing residue of the dangerous
11 drug while either inside of or entering or exiting an overdose
12 prevention clinic as either an employee or participant of the
13 overdose prevention clinic pursuant to chapter _____.

14 (4) It is an affirmative defense to prosecution for the
15 offense of promoting a dangerous drug in the third degree that
16 the person who possessed the dangerous drug, including any used
17 needles or syringes containing residue of the dangerous drug,
18 did so while either inside of or entering or exiting an overdose
19 prevention clinic as either an employee or participant of the
20 overdose prevention clinic pursuant to chapter _____."



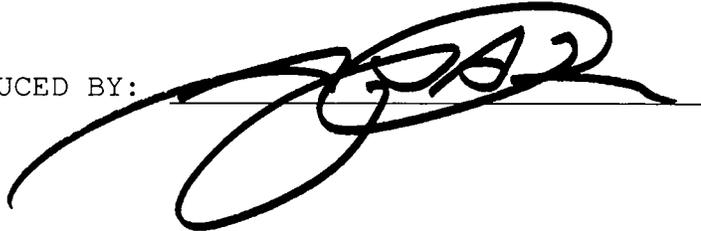
1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and difficult to decipher, but appears to contain the letters 'JPA'.

S.B. NO. 957

Report Title:

DOH; Overdose Prevention Centers; Establishment; Overdose Prevention Center Oversight Committee; Criminal Liability; Exemptions

Description:

Establishes and provides criteria for overdose prevention centers, including standards for the Department of Health to designate certain facilities as overdose prevention centers. Establishes an Overdose Prevention Center Oversight Committee. Provides immunity from state criminal prosecution for certain offenses for persons using a designated overdose prevention center and persons operating a designated overdose prevention center.

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

