

ACT 106

S.B. NO. 1433

A Bill for an Act Relating to Harm Reduction.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that sharing injection equipment among individuals who use drugs significantly contributes to the spread of human immunodeficiency virus (HIV), hepatitis B, hepatitis C, and other serious bloodborne infections. Act 152, Session Laws of Hawaii 1992, authorized the establishment of the first state-funded sterile needle and syringe exchange program in the United States. The program aims to prevent the transmission of bloodborne pathogens and to provide individuals who inject drugs with services such as referrals to appropriate health and social services, thereby reducing the overall disease burden in Hawaii.

Over the past thirty years, extensive scientific research has confirmed that syringe exchange programs nationwide effectively reduce disease transmission, increase access to addiction treatment, improve public safety, lower health care costs, and do not lead to an increase in drug use or crime. Research has also helped identify the most effective approaches in what are now commonly referred to as “syringe services programs”.

A 2020 report by the Centers for Disease Control and Prevention, United States Department of Health and Human Services, concluded that syringe programs that restrict syringe distribution to one-to-one exchange are less effective than needs-based distribution programs that provide sterile needles and syringes to syringe exchange participants in quantities sufficient to reduce the likelihood of needles and syringes being shared or reused. The Centers for Disease Control and Prevention supports needs-based approaches to syringe distribution based on evidence that it is the best practice for reducing new HIV and viral hepatitis infections. The Centers for Disease Control and Prevention concludes that, compared to one-to-one exchanges, needs-based syringe distribution leads to less syringe sharing and reuse, lowers risk of infection, and is not associated with increased unsafe syringe disposal. Research shows that syringe distribu-

tion programs are safe, effective, cost-saving, do not increase drug use or crime, and do not cause people to begin injecting drugs. However, Hawaii and Florida remain the only states that impose a strict one-to-one sterile needle and syringe exchange limit. This Act will authorize the State's syringe exchange program to transition from a one-to-one exchange model to a needs-based distribution system.

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

The Model Syringe Services Program Act, a model legislation released by the White House Office of National Drug Control Policy in December 2021, recommends extending protection from criminal liability under drug paraphernalia statutes to syringe program staff, volunteers, and participants while implementing or accessing program services intended to reduce the transmission of bloodborne infections. This Act amends state law to align with those recommendations.

In line with recommendations for improving effectiveness, the State's sterile needle and syringe exchange program also facilitates access to critical health services necessary for participants. These include educating participants about the dangers of contracting HIV through sharing drug injection equipment and offering counseling services and referrals for treatment of substance use disorders. Furthermore, individuals who do not inject drugs but are marginalized often seek harm reduction information, supplies, and referrals to other services through the program. This Act will remove the requirement that the program exclude non-injection drug users, ensuring the program can assist individuals in need when resources are available.

Syringe services programs also play a crucial role in collecting and safely disposing of used injection equipment. Safe disposal occurs most effectively if program participants batch all used injection equipment for safe disposal by syringe services programs. However, participants may be reluctant to batch used injection equipment for safe disposal if they risk criminal penalties for drug residue found on used equipment. Extending protection from arrest and prosecution for possession of drug residue on used syringes and needles to program participants will increase the likelihood of proper disposal, thereby reducing public health risks. Program staff regularly encourage participants to batch and return all used injection equipment to the syringe exchange program, not only for the safety of the community, but also to assist in ensuring the program's continuity. For these reasons, the Model Syringe Services Program Act recommends providing immunity from criminal penalties for possession of a controlled substance or other illicit drug due to the presence of residue in a hypodermic needle or syringe or other supplies.

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

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

1. By adding five new definitions to be appropriately inserted and to read:

““Authorized objects” means objects authorized by the department for dissemination to syringe exchange participants for the purpose of reducing in-

fection or injury; provided that the objects are incidental to syringe exchange. “Authorized objects” may include but is not limited to cookers, cottons, or ties.

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

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

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

“Syringe exchange participant” means an injection drug user who receives a sterile needle and syringe pursuant to the program.”

2. By deleting the definition of “participant”.

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

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

“[H§325-113] Operation of the program. (a) The program shall be operated for the purpose of:

- (1) Preventing the transmission of the human immunodeficiency virus, [the] hepatitis B virus, hepatitis C virus, and other [blood borne diseases;] bloodborne infections; and
- (2) Providing [injection] drug users with referrals to appropriate health and social services.

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

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

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

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

(f) The program shall include services to:

- (1) Educate the syringe exchange participant about the dangers of contracting [HIV infection] bloodborne infections through [needle-sharing] needle- and other materials-sharing practices; and

- (2) Offer substance ~~[abuse]~~ use disorder treatment referral and counseling services to all syringe exchange participants ~~and non-injection drug users.~~
- (g) The program shall compile research data on behavioral changes ~~;~~ enrollment in ~~[drug abuse]~~ substance use disorder treatment, counseling, and education programs ~~;~~ service provision ~~;~~ disease transmission ~~;~~ and other information that may be relevant and useful to assist in the planning and evaluation of efforts to combat the spread of ~~[blood-borne diseases]~~ bloodborne infections.”

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

~~“[§325-114] Criminal Liability.~~ **Liability.** (a) ~~[Exchanges under the sterile needle and syringe exchange program]~~ Possession or delivery of needles or syringes shall not constitute an offense under section 329-43.5 for ~~[the participant or for the employees of the department or its designees.]~~ program staff acting in the course and scope of official duties; provided that delivery is limited to other program staff or to syringe exchange participants pursuant to this part. Possession of needles or syringes shall not constitute an offense under section 329-43.5 for syringe exchange participants participating in a program visit.

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

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

(d) Subsections (a), (b), and (c) shall only apply to needles, syringes, or authorized objects possessed by syringe exchange participants or program staff; or to needles, syringes, or authorized objects delivered between program staff, or between a syringe exchange participant and program staff.

(e) Subsections (a), (b), and (c) shall not apply to any needles, syringes, or authorized objects:

- (1) Possessed by anyone other than syringe exchange participants or program staff; or
- (2) Delivered between:
 - (A) Syringe exchange participants;
 - (B) A syringe exchange participant and an individual who is neither a syringe exchange participant nor program staff;
 - (C) Individuals who are neither syringe exchange participants nor program staff; or
 - (D) An individual who is neither a syringe exchange participant nor program staff.

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

~~[(b) Nothing]~~ (g) Except as specifically provided in this section, nothing in this part [provides] shall provide immunity from prosecution to any person for violation of any law prohibiting or regulating the use, possession, dispensing, distribution, or promotion of controlled substances, dangerous drugs, detrimental drugs, or harmful drugs. [Nothing] Except as specifically provided in this section, nothing in this part [provides] shall provide immunity from prosecution to any person for violation of [sections] section 329-41, 329-42, or 712-1241 through [712-1249.6-] 712-1249.7.”

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

“[§325-116]] Reports. The department, on or before January 1 of each year, shall submit a report to the sterile needle exchange program oversight committee. The report shall include:

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

The report shall address the strengths and weaknesses of the program, the advisability of its continuation, amendments to the law, if appropriate, and other matters that may be helpful to the oversight committee in evaluating the program’s efficacy.”

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

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

(Approved May 29, 2025.)