
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 significantly
3 contributes to the spread of human immunodeficiency virus (HIV),
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 aims
8 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 the 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 leads to
16 less syringe sharing and reuse, lowers risk of infection, and is
17 not associated with increased unsafe syringe disposal. Research
18 shows that syringe distribution programs are safe, effective,
19 cost-saving, do not increase drug use or crime, and do not cause
20 people to begin injecting drugs. However, Hawaii and Florida
21 remain the only states that impose a strict one-to-one sterile



1 needle and syringe exchange limit. This Act will authorize the
2 State's syringe exchange program to transition from a one-to-one
3 exchange model to a needs-based distribution 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, a model legislation
9 released by the White House Office of National Drug Control
10 Policy in December 2021, recommends extending protection from
11 criminal liability under drug paraphernalia statutes to syringe
12 program staff, volunteers, and participants while implementing
13 or accessing program services intended to reduce the
14 transmission of bloodborne infections. This Act amends state
15 law to align with those recommendations.

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



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

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



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

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

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

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

16 "Authorized objects" means objects authorized by the
17 department for dissemination to syringe exchange participants
18 for the purpose of reducing infection or injury; provided that
19 the objects are incidental to syringe exchange. "Authorized
20 objects" may include but is not limited to cookers, cottons, or
21 ties.



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

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

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

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

16 2. By deleting the definition of "participant".

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

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



1 "[+] §325-113[+] Operation of the program. (a) The
2 program shall be operated for the purpose of:

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

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

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

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



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

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

11 (f) The program shall include services to:

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

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

19 (g) The program shall compile research data on behavioral
20 changes[-]; enrollment in [~~drug abuse~~] substance use disorder
21 treatment, counseling, and education programs[-]; service



1 provision; disease transmission[7]; and other information that
2 may be relevant and useful to assist in the planning and
3 evaluation of efforts to combat the spread of [blood borne
4 diseases.] bloodborne infections."

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

7 "~~[§] §325-114 [§] Criminal liability.]~~ Liability. (a)
8 ~~[Exchanges under the sterile needle and syringe exchange~~
9 ~~program]~~ Possession or delivery of needles or syringes shall not
10 constitute an offense under section 329-43.5 for ~~[the~~
11 ~~participant or for the employees of the department or its~~
12 ~~designees.]~~ program staff acting in the course and scope of
13 official duties; provided that delivery is limited to other
14 program staff or to syringe exchange participants pursuant to
15 this part. Possession of needles or syringes shall not
16 constitute an offense under section 329-43.5 for syringe
17 exchange participants participating in a program visit.

18 (b) Possession or delivery of authorized objects shall not
19 constitute an offense under section 329-43.5 for program staff
20 acting in the course and scope of official duties; provided that
21 delivery is limited to other program staff or to syringe



1 exchange participants pursuant to this part. Possession of
2 authorized objects shall not constitute an offense under section
3 329-43.5 for syringe exchange participants participating in a
4 program visit. The department shall establish a specific list
5 of authorized objects, which may be updated from time to time as
6 needed.

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

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



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

3 (1) Possessed by anyone other than syringe exchange
4 participants or program staff; or

5 (2) Delivered between:

6 (A) Syringe exchange participants;

7 (B) A syringe exchange participant and an individual
8 who is neither a syringe exchange participant nor
9 program staff;

10 (C) Individuals who are neither syringe exchange
11 participants nor program staff; or

12 (D) An individual who is neither a syringe exchange
13 participant nor program staff.

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

19 ~~[(b) Nothing]~~ (g) Except as specifically provided in this
20 section, nothing in this part [provides] shall provide immunity
21 from prosecution to any person for violation of any law



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

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

10 "[+]§325-116[+] Reports. The department, on or before
11 January 1 of each year, shall submit a report to the sterile
12 needle exchange program oversight committee. The report shall
13 include:

- 14 (1) Information as to the number of syringe exchange
15 participants served ~~[and]~~, the number of needles and
16 syringes distributed~~[+]~~, and the number of used
17 needles and syringes collected;
- 18 (2) A demographic profile of the syringe exchange
19 participants served, including but not limited to:
20 age, sex, ethnicity, area of residence, occupation,



1 types of drugs used, length of drug use, and frequency
2 of injection;

3 (3) Impact of the program on needle and syringe sharing
4 and other [~~high-risk~~] high-risk behavior;

5 (4) Data on syringe exchange participants regarding [~~HIV~~]
6 human immunodeficiency virus (HIV) testing,
7 counseling, drug treatment, and other social services,
8 including referrals for HIV testing and counseling and
9 for [~~drug-abuse~~] substance use disorder treatment;

10 (5) Impact on the transmission of HIV infection among
11 injection drug users;

12 (6) Impact on behaviors that caused syringe exchange
13 participants to be at risk for HIV transmission such
14 as frequency of drug use and needle sharing;

15 (7) An assessment of the cost-effectiveness of the program
16 versus direct and indirect costs of HIV infection; and

17 (8) Information on the percentage of persons served
18 through treatment programs for injection drug users
19 funded through the department that were attributed to
20 needle exchange referrals.



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

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

8 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. (CD1)

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