

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

H.72

Introduced by Representatives Small of Winooski, Berbeco of Winooski,  
Black of Essex, Bluemle of Burlington, Bos-Lun of  
Westminster, Brumsted of Shelburne, Christie of Hartford, Cina  
of Burlington, Dodge of Essex, Donnally of Hyde Park,  
Garofano of Essex, Goldman of Rockingham, Headrick of  
Burlington, Hooper of Randolph, Hyman of South Burlington,  
LaMont of Morristown, Leavitt of Grand Isle, Logan of  
Burlington, McGill of Bridport, Mulvaney-Stanak of  
Burlington, Pajala of Londonderry, Rachelson of Burlington,  
Rice of Dorset, Sims of Craftsbury, Stone of Burlington,  
Surprenant of Barnard, Templeman of Brownington, Torre of  
Moretown, and Troiano of Stannard

Referred to Committee on

Date:

Subject: Health; human services; regulated drugs; crimes

Statement of purpose of bill as introduced: This bill proposes to eliminate  
criminal and civil penalties for operation of a safer drug consumption program;  
repeal the crack statute; repeal the sunset of the decriminalization of small  
amount of buprenorphine; establish the Drug Use Standards Advisory Board  
within the Vermont Sentencing Commission for determining benchmarks for

1 personal use dosage and personal use supply for regulated drugs; and require  
2 the Sentencing Commission to use benchmark recommendations from the  
3 Drug Use Standards Advisory Board to make recommendations regarding  
4 adjustments in the amounts for possession, dispensing, and sale of regulated  
5 drugs.

6 An act relating to a harm-reduction criminal justice response to drug use

7 It is hereby enacted by the General Assembly of the State of Vermont:

8 \* \* \* Safer Drug Consumption Programs \* \* \*

9 Sec. 1. 18 V.S.A. § 4254 is amended to read:

10 § 4254. IMMUNITY FROM LIABILITY

11 \* \* \*

12 (j)(1) The following persons shall not be cited, arrested, or prosecuted for a  
13 violation of this chapter or subject to the property forfeiture provisions of this  
14 chapter for participation in or with a safer drug consumption program:

15 (A) a person using the services of a safer drug consumption program;

16 (B) a staff member or administrator of a safer drug consumption  
17 program, including a health care professional, manager, employee, or  
18 volunteer; or

19 (C) a property owner who owns real property at which a safer drug  
20 consumption program is located and operates.

1           (2) The immunity provisions of this section apply only to the use and  
2           derivative use of evidence gained as a proximate result of participation in or  
3           with a safer drug consumption program.

4           (k) A safer drug consumption program:

5           (1) provides a space supervised by health care professionals or other  
6           trained staff where persons who use drugs can consume pre-obtained drugs;

7           (2) provides sterile injection supplies, collects used hypodermic needles  
8           and syringes, and provides secure hypodermic needle and syringe disposal  
9           services;

10          (3) answers questions on safe consumption practices;

11          (4) administers first aid, if needed, and monitors and treats potential  
12          overdoses;

13          (5) provides referrals to addiction treatment, medical services, and social  
14          services upon request;

15          (6) educates participants on the risks of contracting HIV and viral  
16          hepatitis, wound care, and safe sex education;

17          (7) provides overdose prevention education and access to or referrals to  
18          obtain naloxone;

19          (8) educates participants regarding proper disposal of hypodermic  
20          needles and syringes;

21          (9) provides reasonable security of the program site;



1 (c) Trafficking.

2 (1) ~~Trafficking.~~ A person knowingly and unlawfully possessing cocaine  
3 in an amount consisting of 150 grams or more of one or more preparations,  
4 compounds, mixtures, or substances containing cocaine with the intent to sell  
5 or dispense the cocaine shall be imprisoned not more than 30 years or fined not  
6 more than \$1,000,000.00, or both. There shall be a permissive inference that a  
7 person who possesses cocaine in an amount consisting of 150 grams or more of  
8 one or more preparations, compounds, mixtures, or substances containing  
9 cocaine intends to sell or dispense the cocaine. The amount of possessed  
10 cocaine under this subdivision to sustain a charge of conspiracy under  
11 13 V.S.A. § 1404 shall be ~~no~~ not less than 400 grams in the aggregate.

12 (2) ~~A person knowingly and unlawfully possessing crack cocaine in an~~  
13 ~~amount consisting of 60 grams or more of one or more preparations,~~  
14 ~~compounds, mixtures, or substances containing crack cocaine with the intent to~~  
15 ~~sell or dispense the crack cocaine shall be imprisoned not more than 30 years~~  
16 ~~or fined not more than \$1,000,000.00, or both. There shall be a permissive~~  
17 ~~inference that a person who possesses crack cocaine in an amount consisting of~~  
18 ~~60 grams or more of one or more preparations, compounds, mixtures, or~~  
19 ~~substances containing crack cocaine intends to sell or dispense the crack~~  
20 ~~cocaine.~~ [Repealed.]

1           \* \* \* Remove Future Repeal of Buprenorphine Exemption \* \* \*

2           Sec. 3. REPEAL

3           2021 Acts and Resolves No. 46, Secs. 3 (repeal of buprenorphine  
4           exemption) and 4(b) (effective date; repeal of buprenorphine exemption) are  
5           repealed.

6                           \* \* \* Drug Use Standards Advisory Board \* \* \*

7           Sec. 4. 13 V.S.A. § 5453 is added to read:

8           § 5453. DRUG USE STANDARDS ADVISORY BOARD

9           (a) There is hereby created the Drug Use Standards Advisory Board  
10           established within the Vermont Sentencing Commission composed of experts  
11           in the fields of general and mental health care, substance use disorder  
12           treatment, and drug user communities.

13           (b) The primary objective of the Board shall be to determine, for each  
14           regulated and unregulated drug, the benchmark personal use dosage and the  
15           benchmark personal use supply. The benchmarks determined pursuant to this  
16           subsection shall be determined with a goal of preventing and reducing the  
17           criminalization of personal drug use. The Board may provide additional  
18           recommendations to the Commission and the General Assembly regarding how  
19           to transition from a criminal justice approach to a public health approach to  
20           addressing drug possession.

1        (c)(1) The Board shall be convened and chaired by the Deputy  
2        Commissioner of Substance Use Programs. After receiving nominations from  
3        harm reduction service providers, the Deputy Commissioner shall appoint  
4        three consumer representatives to the Board who have lived experience in drug  
5        use and consumption practices. The Deputy Commissioner, after consulting  
6        with the three consumer representatives, shall strive for geographic diversity in  
7        appointing the remaining Board members as follows:

8                (A) two representatives from harm reduction service providers;

9                (B) an expert on medication-assisted treatment programs;

10               (C) an expert on human behavior and addiction;

11               (D) an expert on substance use disorder treatment;

12               (E) an expert on legal reform from the Vermont Law School Center  
13        for Justice Reform;

14               (F) an academic researcher specializing in drug use or drug policy;

15        and

16               (G) a representative of law enforcement.

17               (2) The Chief Prevention Officer shall be a nonvoting member of the  
18        Board.

19               (d) The Board shall have the administrative assistance of the Division of  
20        Substance Use Programs.

1       (e) Members of the Board shall be entitled to per diems pursuant to  
2       32 V.S.A. § 1010 for not more than three meetings to develop initial  
3       recommendations required by subsection (f) of this section and once annually  
4       thereafter.

5       (f) On or before September 1, 2023, the Board shall provide to the  
6       Commission and the General Assembly:

7               (1) the recommended quantities for both the benchmark personal use  
8       dosage and benchmark personal use supply for each category of regulated drug  
9       listed in 18 V.S.A. § 4201(29); and

10              (2) a recommendation as to whether 18 V.S.A. § 4233 (heroin) and  
11       18 V.S.A. § 4233a (fentanyl) should be combined into one statute.

12       (g) On or before December 1, 2023, based on the benchmark personal use  
13       dosage and benchmark personal use supply recommendations of the Board, the  
14       Commission shall make recommendations to the General Assembly regarding  
15       adjustments in the amounts for possession, dispensing, and sale of regulated  
16       drugs under this chapter and a proposal for combining the heroin and fentanyl  
17       statutes if recommended by the Board.

18       (h) Starting in 2024, the Board shall convene at least one time per year to  
19       review benchmarks established pursuant to this section and recommend any  
20       necessary amendments to the Commission and the General Assembly.

21       (i) As used in this section:



