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

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

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

§ 4254. IMMUNITY FROM LIABILITY; OVERDOSE PREVENTION

* * *

(j)(1) The following persons shall not be cited, arrested, or prosecuted for unlawful possession of a regulated drug in violation of this chapter or subject to the property forfeiture provisions of this chapter for participation in or with an overdose prevention center that has been approved pursuant to subsection (m) of this section and that is acting in the good faith provision of overdose prevention services in accordance with the guidelines established pursuant to subsection (l) of this section:

(A) a person using the services of an overdose prevention center;

(B) a staff member or administrator of an overdose prevention center, including a health care professional, manager, employee, or volunteer; or

(C) a property owner who owns real property at which an overdose prevention center is located and operates.

(2) The immunity provisions of this subsection apply only to the use and derivative use of evidence gained as a proximate result of participation in or with an overdose prevention center.

- 1 (k) An overdose prevention center:
- 2 (1) provides a space supervised by health care professionals or other
3 trained staff where persons who use drugs can consume preobtained drugs and
4 medication for substance use disorder;
- 5 (2) provides harm reduction supplies, including sterile injection
6 supplies; collects used hypodermic needles and syringes; and provides secure
7 hypodermic needle and syringe disposal services;
- 8 (3) answers questions on safer consumption practices;
- 9 (4) administers first aid, if needed, and monitors and treats potential
10 overdoses;
- 11 (5) provides referrals to addiction treatment, medical services, and social
12 services;
- 13 (6) educates participants on the risks of contracting HIV and viral
14 hepatitis, wound care, and safe sex education;
- 15 (7) provides overdose prevention education and distributes overdose
16 reversal medications, including naloxone;
- 17 (8) educates participants regarding proper disposal of hypodermic
18 needles and syringes;
- 19 (9) provides reasonable security of the program site;
- 20 (10) establishes operating procedures for the program as well as
21 eligibility criteria for program participants; and

1 (11) trains staff members to deliver services offered by the program.

2 (l) The Department of Health, in consultation with stakeholders and health
3 departments of other states that have overdose prevention centers, shall
4 develop operating guidelines for overdose prevention centers not later than
5 April 1, 2025. The operating guidelines shall include the level of staff
6 qualifications required for medical safety and treatment and referral support.

7 (m)(1) An entity may apply to the Department of Health for approval to
8 operate an overdose prevention center. Entities may apply to establish and
9 operate more than one program, and services may be provided at a fixed
10 location or a mobile unit, or both. A safe syringe program may apply to
11 operate an overdose prevention center.

12 (2) If an applicant complies with all applicable laws, rules, and
13 operating guidelines adopted pursuant to subsection (l) of this section, the
14 application shall be approved within 45 days after receipt. If the application is
15 denied, the applicant shall be provided with a written explanation of the basis
16 for the denial and the steps necessary to remedy the application. The applicant
17 may resubmit the application and the Department shall have 45 days to
18 respond. Approval for a program shall be for a period of two years and may be
19 renewed.

1 (n) An overdose prevention center shall be permitted to operate within a
2 municipality only upon the affirmative vote of the legislative body of the
3 municipality.

4 (o) An entity operating an overdose prevention center shall make publicly
5 available the following information annually on or before January 15:

6 (1) the number of program participants;

7 (2) deidentified demographic information of program participants;

8 (3) the number of overdoses and the number of overdoses reversed on-
9 site;

10 (4) the number of times emergency medical services were contacted and
11 responded for assistance;

12 (5) the number of times law enforcement were contacted and responded
13 for assistance; and

14 (6) the number of participants directly and formally referred to other
15 services and the type of services.

16 Sec. 2. 18 V.S.A. § 4475(2) is amended to read:

17 (2) “Organized community-based needle exchange program” means a
18 program approved by the Commissioner of Health under section 4478 of this
19 title, the purpose of which is to provide access to clean needles and syringes;
20 ~~and which is operated by an AIDS service organization, a substance abuse~~
21 ~~treatment provider, or a licensed health care provider or facility.~~ Such

1 programs shall be operated in a manner that is consistent with the provisions of
2 10 V.S.A. chapter 159 (waste management; hazardous waste), and any other
3 applicable laws.

4 Sec. 3. 18 V.S.A. § 4478 is amended to read:

5 § 4478. NEEDLE EXCHANGE PROGRAMS

6 The Department of Health, in ~~collaboration~~ consultation with ~~the statewide~~
7 ~~harm-reduction coalition~~ community stakeholders, shall develop operating
8 guidelines for needle exchange programs. If a program complies with such
9 operating guidelines and with existing laws and regulations, it shall be
10 approved by the Commissioner of Health. ~~Such operating guidelines shall be~~
11 ~~established no later than September 30, 1999.~~ A needle exchange program
12 may apply to be an overdose prevention center pursuant to section 4254 of this
13 title.

14 Sec. 4. 33 V.S.A. § 2004 is amended to read:

15 § 2004. MANUFACTURER FEE

16 (a) Annually, each pharmaceutical manufacturer or labeler of prescription
17 drugs that are paid for by the Department of Vermont Health Access for
18 individuals participating in Medicaid, Dr. Dynasaur, or VPharm shall pay a fee
19 to the Agency of Human Services. The fee shall be ~~4.75~~ 2.25 percent of the
20 previous calendar year's prescription drug spending by the Department and

1 shall be assessed based on manufacturer labeler codes as used in the Medicaid
2 rebate program.

3 (b) Fees collected under this section shall fund collection and analysis of
4 information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632
5 and 4633; analysis of prescription drug data needed by the Office of the
6 Attorney General for enforcement activities; the Vermont Prescription
7 Monitoring System established in 18 V.S.A. chapter 84A; the evidence-based
8 education program established in 18 V.S.A. chapter 91, subchapter 2;
9 statewide unused prescription drug disposal initiatives; prevention of
10 prescription drug misuse, abuse, and diversion; the Substance Misuse
11 Prevention Oversight and Advisory Council established in 18 V.S.A. § 4803;
12 treatment of substance use disorder; exploration of nonpharmacological
13 approaches to pain management; a hospital antimicrobial program for the
14 purpose of reducing hospital-acquired infections; the purchase and distribution
15 of fentanyl testing strips; the purchase and distribution of naloxone to
16 emergency medical services personnel; ~~and~~ any opioid-antagonist education,
17 training, and distribution program operated by the Department of Health or its
18 agents; and grants to overdose prevention centers to address the harms of the
19 opioid epidemic. The fees shall be collected in the Evidence-Based Education
20 and Advertising Fund established in section 2004a of this title.

1 (c) The Secretary of Human Services or designee shall make rules for the
2 implementation of this section.

3 * * *

4 Sec. 5. 33 V.S.A. § 2004a is amended to read:

5 § 2004a. EVIDENCE-BASED EDUCATION AND ADVERTISING FUND

6 (a) The Evidence-Based Education and Advertising Fund is established in
7 the State Treasury as a special fund to be a source of financing for activities
8 relating to fund collection and analysis of information on pharmaceutical
9 marketing activities under 18 V.S.A. §§ 4632 and 4633; for analysis of
10 prescription drug data needed by the Office of the Attorney General for
11 enforcement activities; for the Vermont Prescription Monitoring System
12 established in 18 V.S.A. chapter 84A; for the evidence-based education
13 program established in 18 V.S.A. chapter 91, subchapter 2; for statewide
14 unused prescription drug disposal initiatives; for the prevention of prescription
15 drug misuse, abuse, and diversion; for the Substance Misuse Prevention
16 Oversight and Advisory Council established in 18 V.S.A. § 4803; for treatment
17 of substance use disorder; for exploration of nonpharmacological approaches
18 to pain management; for a hospital antimicrobial program for the purpose of
19 reducing hospital-acquired infections; for the purchase and distribution of
20 fentanyl testing strips; for the purchase and distribution of naloxone to
21 emergency medical services personnel; ~~and~~ for the support of any opioid-

1 antagonist education, training, and distribution program operated by the
2 Department of Health or its agents; and grants to overdose prevention centers
3 to address the harms of the opioid epidemic. Monies deposited into the Fund
4 shall be used for the purposes described in this section.

5 * * *

6 Sec. 6. PILOT PROGRAM; OVERDOSE PREVENTION CENTERS

7 In fiscal year 2025, \$2,000,000.00 is authorized from the Evidence-Based
8 Education and Advertising Fund pursuant to 33 V.S.A. § 2004a to the
9 Department of Health for the purpose of awarding grants for two fixed-site or
10 mobile overdose prevention centers to applicants that demonstrate the ability to
11 run such a program in accordance with the requirements of Sec. 1 of this act.
12 The Department shall award grants based on an applicant's ability to establish
13 such sites in accordance with guidelines established by the Department for
14 overdose prevention centers.

15 Sec. 7. STUDY; OVERDOSE PREVENTION CENTERS

16 (a) On or before December 1, 2024, the Department of Health shall
17 contract with a researcher or independent consulting entity with expertise in
18 the field of rural addiction or overdose prevention centers, or both, to study the
19 impact of overdose prevention center pilot programs authorized in Sec. 6 of
20 this act in their respective communities. The study shall evaluate the current
21 impacts of the overdose crisis in Vermont, as well as any changes up to four

1 years following the implementation of the overdose prevention center pilot
2 programs. The work of the researcher or independent consulting entity shall be
3 governed by the following goals:

4 (1) the current state of the overdose crisis and deaths across the State of
5 Vermont and the impact of overdose prevention center pilot programs on the
6 overdose crisis and deaths across Vermont, with a focus on the communities
7 where pilot programs are established;

8 (2) the current crime rates in communities where the overdose
9 prevention center pilot programs will be established and the impact of
10 overdose prevention center pilot programs on crime rates in communities
11 where the overdose prevention center pilot programs are established;

12 (3) the current rates of syringe litter in communities where overdose
13 prevention center pilot programs will be established and the impact of
14 overdose prevention center pilot programs on the rates of syringe litter where
15 overdose prevention center pilot programs are established;

16 (4) the current number of emergency medical services response calls
17 related to overdoses across Vermont, with a focus on the communities where
18 pilot programs will be established, and the impact of overdose prevention
19 center pilot programs on the number of emergency response calls related to
20 overdoses;

1 (5) the current rate of syringe service program participant uptake of
2 treatment and recovery services and the impact of overdose prevention center
3 pilot programs on the rates of participant uptake of treatment and recovery
4 services; and

5 (6) the impact of overdose prevention center pilot programs on the
6 number of emergency response calls related to overdoses across Vermont, with
7 a focus on the communities where pilot programs are established.

8 (b) The Department of Health shall collaborate with the researcher or
9 independent consulting agency to provide the General Assembly with interim
10 annual reports on or before January 15 of each year with a final report
11 containing the results of the study and any recommendations on or before
12 January 15, 2029.

13 Sec. 8. APPROPRIATION; STUDY; OVERDOSE PREVENTION

14 CENTERS

15 In fiscal year 2025, \$300,000.00 is appropriated to the Department of
16 Health from the Opioid Abatement Special Fund for the purpose of funding the
17 study of the impact of overdose prevention center pilot programs authorized in
18 Sec. 7 of this act.

19 Sec. 9. EFFECTIVE DATE

20 This act shall take effect on passage.