

Senate proposal of amendment

H. 72.

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

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Overdose Prevention Centers * * *

Sec. 1. 18 V.S.A. § 4256 is added to read:

§ 4256. OVERDOSE PREVENTION CENTERS

(a) An overdose prevention center:

(1) provides a space, either at a fixed location or a mobile facility, supervised by health care professionals or other trained staff where persons who use drugs can consume preobtained drugs and medication for substance use disorder;

(2) provides harm reduction supplies, including sterile injection supplies; collects used hypodermic needles and syringes; and provides secure hypodermic needle and syringe disposal services;

(3) provides drug-checking services;

(4) answers questions on safer consumption practices;

(5) administers first aid, if needed, and monitors and treats potential overdoses;

(6) provides referrals to addiction treatment, medical services, and social services;

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

(8) provides overdose prevention education and distributes overdose reversal medications, including naloxone;

(9) educates participants regarding proper disposal of hypodermic needles and syringes;

(10) provides reasonable security of the program site;

(11) establishes operating procedures for the program as well as eligibility criteria for program participants; and

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

(b) The Department of Health, in consultation with stakeholders and health departments of other jurisdictions that have overdose prevention centers, shall develop operating guidelines for overdose prevention centers not later than

September 15, 2024. The operating guidelines shall include the level of staff qualifications required for medical safety and treatment and referral support and require an overdose prevention center to staff trained professionals during operating hours who, at a minimum, can provide basic medical care, such as CPR, overdose interventions, first aid, and wound care, as well as have the ability to perform medical assessments with program participants to determine if there is a need for emergency medical service response. Overdose prevention center staff may include peers, case managers, medical professionals, and mental health counselors.

(c)(1) The following persons are entitled to the immunity protections set forth in subdivision (2) of this subsection for participation in or with an approved overdose prevention center that is acting in the good faith provision of overdose prevention services in accordance with the guidelines established pursuant to this section:

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

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

(C) a property owner, lessor, or sublessor on the property at which an overdose prevention center is located and operates;

(D) an entity operating the overdose prevention center; and

(E) a State or municipal employee acting within the course and scope of the employee's employment.

(2) Persons identified in subdivision (1) of this subsection shall not be:

(A) cited, arrested, charged, or prosecuted for unlawful possession of a regulated drug in violation of this chapter or for attempting, aiding or abetting, or conspiracy to commit a violation of any of provision of this chapter;

(B) subject to property seizure or forfeiture for unlawful possession of a regulated drug in violation of this chapter;

(C) subject to any civil liability or civil or administrative penalty, including disciplinary action by a professional licensing board, credentialing restriction, contractual liability, or medical staff or other employment action; or

(D) denied any right or privilege.

(3) The immunity provisions of subdivisions (2)(A) and (B) 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. Entering, exiting, or utilizing the services of an overdose prevention center shall not serve as the basis for, or a fact contributing to the existence of, reasonable suspicion or probable cause to conduct a search or seizure.

(4) The immunity provisions in subdivision (2)(C) of this subsection shall not apply to:

(A) an individual using the services of an overdose prevention center if the basis for the civil claim is that the person operated a motor vehicle in violation of 23 V.S.A. § 1201; or

(B) claims unrelated to the provision of overdose prevention services.

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

(1) the number of program participants;

(2) deidentified demographic information of program participants;

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

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

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

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

(e) An overdose prevention center shall not be construed as a health care facility for purposes of chapter 221, subchapter 5 of this title.

Sec. 1a. 18 V.S.A. § 9435(g) is added to read:

(g) Excluded from this subchapter are overdose prevention centers established and operated in accordance with section 4256 of this title.

Sec. 2. PILOT PROGRAM; OVERDOSE PREVENTION CENTERS

(a) In fiscal year 2025, \$1,100,000.00 is appropriated to the Department of Health from the Opioid Abatement Special Fund for the purpose of awarding grants to the City of Burlington for establishing an overdose prevention center upon submission of a grant proposal that has been approved by the Burlington City Council and meets the requirements of 18 V.S.A. § 4256, including the guidelines developed by the Department of Health pursuant to that section.

(b) The Department of Health shall report on or before October 1, 2024, January 1, 2025, April 1, 2025, and July 1, 2025 to the Joint Fiscal Committee

and the Joint Health Reform Oversight Committee regarding the status of distribution of the grants authorized in subsection (a) of this section.

(c) It is the intent of the General Assembly to continue to appropriate funds from the Opioid Abatement Special Fund through fiscal year 2028 for the purpose of awarding grants to the City of Burlington for the operation of the pilot program.

Sec. 3. STUDY; OVERDOSE PREVENTION CENTERS

(a) On or before December 1, 2024, the Department of Health shall contract with a researcher or independent consulting entity with expertise in the field of rural addiction or overdose prevention centers, or both, to study the impact of the overdose prevention center pilot program authorized in Sec. 2 of this act. The study shall evaluate the current impacts of the overdose crisis in Vermont, as well as any changes up to four years following the implementation of the overdose prevention center pilot program. The work of the researcher or independent consulting entity shall be governed by the following goals:

(1) the current state of the overdose crisis and deaths across the State of Vermont and the impact of the overdose prevention center pilot program on the overdose crisis and deaths across Vermont, with a focus on the community where the pilot program is established;

(2) the current crime rates in the community where the overdose prevention center pilot program will be established and the impact of the overdose prevention center pilot program on crime rates in the community where the overdose prevention center pilot program is established;

(3) the current rates of syringe litter in the community where the overdose prevention center pilot program will be established and the impact of the overdose prevention center pilot program on the rate of syringe litter where the overdose prevention center pilot program is established;

(4) the current number of emergency medical services response calls related to overdoses across Vermont, with a focus on the community where the pilot program will be established and the impact of the overdose prevention center pilot program on the number of emergency response calls related to overdoses;

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

(6) the impact of the overdose prevention center pilot program on the number of emergency response calls related to overdoses and other opioid-related medical needs across Vermont, with a focus on the community where the pilot program is established.

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

Sec. 4. APPROPRIATION; STUDY; OVERDOSE PREVENTION
CENTER

In fiscal year 2025, \$300,000.00 is appropriated to the Department of Health from the Opioid Abatement Special Fund for the purpose of funding the study of the impact of overdose prevention center pilot programs authorized in Sec. 2 of this act.

* * * Syringe Service Programs * * *

Sec. 5. 18 V.S.A. § 4475(a)(2) is amended to read:

(2) “Organized community-based needle exchange program” means a program approved by the Commissioner of Health under section 4478 of this title, the purpose of which is to provide access to clean needles and syringes; ~~and that is operated by an AIDS service organization, a substance abuse treatment provider, or a licensed health care provider or facility.~~ Such programs shall be operated in a manner that is consistent with the provisions of 10 V.S.A. chapter 159 (waste management; hazardous waste), and any other applicable laws.

Sec. 6. 18 V.S.A. § 4478 is amended to read:

§ 4478. NEEDLE EXCHANGE PROGRAMS

The Department of Health, in ~~collaboration~~ consultation with the ~~statewide harm reduction coalition~~ community stakeholders, shall develop operating guidelines for needle exchange programs. If a program complies with such operating guidelines and with existing laws and rules, it shall be approved by the Commissioner of Health. ~~Such operating guidelines shall be established not later than September 30, 1999. A needle exchange program may apply to be an overdose prevention center pursuant to section 4256 of this title.~~

* * * Technical Amendments * * *

Sec. 7. 18 V.S.A. § 4254 is redesignated to read:

§ 4254. REPORTING A DRUG OVERDOSE; IMMUNITY FROM LIABILITY

Sec. 8. REDESIGNATION

18 V.S.A. §§ 4240 and 4240a are redesignated as 18 V.S.A. §§ 4257 and 4258.

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.