

SENATE BILL No. 11

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-41-7.5; IC 16-42-19-18; IC 35-31.5-2-239.5; IC 35-48-4.5.

Synopsis: Needle exchange program participation. Requires a qualified entity to establish and maintain a syringe exchange program registry. Provides a defense to prosecution of certain offenses related to controlled substances if: (1) a person is currently registered under a syringe exchange program; (2) the person obtained the hypodermic syringe or needle under a syringe exchange program; and (3) there is no more than a residual amount of a controlled substance located in the hypodermic syringe or needle.

Effective: July 1, 2019.

Bohacek

January 3, 2019, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 11

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-41-7.5-6, AS AMENDED BY P.L.198-2017,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 6. A qualified entity that operates a program under
4 this chapter must do the following:

5 (1) Annually register the program in a manner prescribed by the
6 state department with the:

7 (A) state department; and

8 (B) local health department in the county or municipality
9 where services will be provided by the qualified entity if the
10 qualified entity is not the local health department.

11 (2) Have one (1) of the following licensed in Indiana provide
12 oversight to the qualified entity's programs:

13 (A) A physician.

14 (B) A registered nurse.

15 (C) A physician assistant.

16 (3) Store and dispose of all syringes and needles collected in a
17 safe and legal manner.



(4) Provide education and training on drug overdose response and treatment, including the administration of an overdose intervention drug.

(5) Provide drug addiction treatment information and referrals to drug treatment programs, including programs in the local area and programs that offer medication assisted treatment that includes a federal Food and Drug Administration approved long acting, nonaddictive medication for the treatment of opioid or alcohol dependence.

(6) Provide syringe and needle distribution and collection. ~~without collecting or recording personally identifiable information.~~

(7) Operate in a manner consistent with public health and safety.

(8) Ensure the program is medically appropriate and part of a comprehensive public health response.

(9) Keep sufficient quantities of an overdose intervention drug (as defined in IC 16-18-2-263.9) in stock and to administer in accordance with IC 16-42-27.

(10) Establish and maintain a registry as described under section 9.5 of this chapter for purposes of IC 35-48-4.5-1.

SECTION 2. IC 16-41-7.5-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 9.5. (a) A qualified entity that operates a program under this chapter shall establish and maintain a registry of individuals participating in the syringe exchange program.**

(b) The registry must contain:

(1) the individual's full name;

(2) the individual's date of birth;

(3) the last four digits of the individual's Social Security number; and

(4) any other identifying information, as determined by the qualified entity.

(c) Before registering an individual, the qualified entity shall inform the individual of:

(1) the ability to raise a defense under IC 35-48-4.5-1; and

(2) who may access the individual's information;

when registered under this program.

(d) Information that could be used to identify an individual participating in a syringe exchange program that is:

(1) contained in; or

(2) provided to the qualified entity and related to;

the registry is confidential.



(e) Any information collected under subsection (d) may be used or accessed only by:

- (1) a court;
- (2) a law enforcement officer; or
- (3) a court clerk.

(f) An individual may opt out and is not required to be included on the registry.

(g) An individual shall waive any requirements set forth in the Health Insurance Portability and Accountability Act (HIPAA) of 1996 as part of registering with a syringe exchange program if the person chooses to remain on the registry.

(h) An individual who is:

- (1) participating in; and
- (2) currently registered with;

a syringe exchange program may raise a defense under IC 35-48-4.5-1.

(i) In addition to the other requirements of this chapter, an individual shall, at least one (1) time every three hundred sixty-five (365) days:

- (1) report in person; and
- (2) register;

at the qualified entity where the individual previously registered in order to raise a defense under IC 35-48-4.5-1.

SECTION 3. IC 16-42-19-18, AS AMENDED BY P.L.187-2015, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 18. (a) A person may not possess with intent to:

- (1) violate this chapter; or
- (2) commit an offense described in IC 35-48-4;

a hypodermic syringe or needle or an instrument adapted for the use of a controlled substance or legend drug by injection in a human being.

(b) A person who violates subsection (a) commits a Level 6 felony.

(c) It is a defense to prosecution under this section if:

- (1) the person is currently registered with a syringe exchange program (as described under IC 16-41-7.5); and
- (2) the person obtained the hypodermic syringe or needle described in subsection (a) under a syringe exchange program (as described under IC 16-41-7.5).

SECTION 4. IC 35-31.5-2-239.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 239.5. "Possession offense", for purposes of IC 35-48-4.5, has the meaning set forth in IC 35-48-4.5-1.



1 SECTION 5. IC 35-48-4.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]:

4 **Chapter 4.5. Defenses Relating to Controlled Substances**

5 **Sec. 1. (a) As used in this section, "possession offense" means**
6 **any of the following:**

7 (1) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

8 (2) Possession of methamphetamine (IC 35-48-4-6.1).

9 (3) Possession of a controlled substance (IC 35-48-4-7).

10 (b) It is a defense to a prosecution under IC 35-48-4-8.3
11 (possession of paraphernalia) or a possession offense described in
12 IC 35-48-4 that:

13 (1) the person is currently registered with a syringe exchange
14 program (as described under IC 16-41-7.5);

15 (2) the person obtained the hypodermic syringe or needle
16 under a syringe exchange program (as described under
17 IC 16-41-7.5); and

18 (3) there is no more than a residual amount of a controlled
19 substance located in the hypodermic syringe or needle.

