

HOUSE BILL 468

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CF SB 97

By: **Delegates Lam, Anderson, Carr, Ebersole, Fraser–Hidalgo, Glenn, Haynes, Hettleman, Hill, Jalisi, A. Miller, Moon, Morales, Morhaim, Oaks, Platt, Reznik, B. Robinson, Smith, Tarlau, M. Washington, and K. Young**

Introduced and read first time: February 1, 2016

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Opioid–Associated Disease Prevention and Outreach Programs**

3 FOR the purpose of repealing the Prince George’s County AIDS Prevention Sterile Needle
4 and Syringe Exchange Program; authorizing the establishment of
5 Opioid–Associated Disease Prevention and Outreach Programs by certain entities;
6 requiring a Program to provide for the exchange by participants of used hypodermic
7 needles and syringes; requiring a Program to operate in accordance with procedures
8 approved by certain local health officers and the Department of Health and Mental
9 Hygiene, on the recommendation of a certain committee; requiring a Program to be
10 designed and maintained to provide security of exchange locations and equipment,
11 in accordance with certain regulations; requiring a Program to be operated to allow
12 participants to exchange used hypodermic needles at any exchange location;
13 requiring a Program to include appropriate levels of staff expertise and training;
14 requiring a Program to provide for the dissemination of other preventive means of
15 curtailing the spread of certain diseases; requiring a Program to provide linkage to
16 drug counseling and treatment services; requiring a Program to educate individuals
17 who inject drugs on the dangers of contracting certain diseases through
18 needle–sharing practices and unsafe sexual behaviors; requiring a Program to
19 establish procedures for identifying Program participants that are consistent with
20 certain confidentiality provisions; requiring a Program to develop a plan for data
21 collection and Program evaluation in accordance with certain regulations; requiring
22 a Program to develop certain operating procedures, a certain outreach plan, and a
23 certain protocol with the advice of a certain committee; requiring a Program, on the
24 recommendation by a certain committee, to submit certain operating procedures, a
25 certain outreach plan, and a certain protocol to certain local health officers and the
26 Department of Health and Mental Hygiene for approval or disapproval; establishing
27 a certain committee; requiring a certain committee to provide certain advice and
28 recommendations; requiring the Department of Health and Mental Hygiene to adopt
29 certain regulations and ensure the provision of certain technical assistance;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 requiring that a Program participant be issued a certain identification card;
2 providing that certain information about a Program participant is confidential;
3 providing that a Program staff member or Program participant may not be found
4 guilty of violating certain laws under certain circumstances; defining certain terms;
5 and generally relating to Opioid–Associated Disease Prevention and Outreach
6 Programs.

7 BY repealing

8 Article – Health – General

9 Section 24–901 through 24–909 and the subtitle “Subtitle 9. Prince George’s County
10 AIDS Prevention Sterile Needle and Syringe Exchange Program”

11 Annotated Code of Maryland

12 (2015 Replacement Volume)

13 BY adding to

14 Article – Health – General

15 Section 24–901 through 24–908 to be under the new subtitle “Subtitle 9.
16 Opioid–Associated Disease Prevention and Outreach Programs”

17 Annotated Code of Maryland

18 (2015 Replacement Volume)

19 Preamble

20 WHEREAS, Infectious diseases, such as HIV, hepatitis B, and hepatitis C, persist in
21 Maryland, with injection drug use as a frequent cause of transmission, and there is a need
22 to control the spread of these diseases; and

23 WHEREAS, Syringe exchange programs provide access to individuals who inject
24 drugs and engage these individuals in sexually transmitted infection screening, testing,
25 and treatment; hepatitis C screening, testing, and treatment; and HIV screening, testing,
26 and long–term care or pre–exposure prophylaxis; and

27 WHEREAS, Syringe exchange programs provide comprehensive services for
28 individuals at risk of HIV, hepatitis C, injection–related wounds, and drug overdose,
29 ultimately decreasing the risk of each negative outcome for the individual; and

30 WHEREAS, Syringe exchange programs have contributed to decreases in the
31 incidence of HIV and hepatitis C in areas in which the programs operate, including in
32 Baltimore City; and

33 WHEREAS, Syringe exchange programs enhance the collection of data and
34 information on substance–related disorder trends and patterns; and

35 WHEREAS, Overdose deaths in Maryland have increased dramatically, specifically
36 from opioid use leading to heroin use, and syringe exchange programs provide an
37 opportunity to provide overdose prevention education and distribute naloxone directly to
38 individuals at risk of overdose; and

1 WHEREAS, Syringe exchange programs provide an opportunity to link individuals
2 who inject drugs to substance-related disorder treatment and other health services; and

3 WHEREAS, Syringe exchange programs assist individuals who inject drugs by
4 preventing injection-related wounds and decreasing emergency room visits and associated
5 costs; and

6 WHEREAS, Syringe exchange programs have been shown to decrease the presence
7 of syringes and needles in public places; and

8 WHEREAS, Syringe exchange programs provide for proper disposal of contaminated
9 syringes, reducing the number of improperly, casually disposed of syringes that become
10 litter; and

11 WHEREAS, Syringe exchange programs have been shown to decrease crime rates in
12 areas in which the programs operate, and their operation is supported by law enforcement;
13 and

14 WHEREAS, Syringe exchange programs have a public health impact that is cost
15 effective; now, therefore,

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That Section(s) 24-901 through 24-909 and the subtitle "Subtitle 9. Prince George's County
18 AIDS Prevention Sterile Needle and Syringe Exchange Program" of Article - Health
19 - General of the Annotated Code of Maryland be repealed.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
21 as follows:

22 **Article - Health - General**

23 **SUBTITLE 9. OPIOID-ASSOCIATED DISEASE PREVENTION AND OUTREACH**
24 **PROGRAMS.**

25 **24-901.**

26 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
27 INDICATED.

28 (B) "COMMUNITY-BASED ORGANIZATION" MEANS AN ORGANIZATION THAT
29 IS REPRESENTATIVE OF A COMMUNITY OR SIGNIFICANT SEGMENTS OF A
30 COMMUNITY AND PROVIDES EDUCATIONAL, HEALTH, OR SOCIAL SERVICES TO
31 INDIVIDUALS IN THE COMMUNITY.

32 (C) "COUNTY" DOES NOT INCLUDE BALTIMORE CITY.

1 (D) "DRUG" HAS THE MEANING STATED IN § 8-101 OF THIS ARTICLE.

2 (E) "HEPATITIS C VIRUS" HAS THE MEANING STATED IN A CASE DEFINITION
3 ADOPTED BY THE FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION.

4 (F) "HIV" MEANS THE HUMAN IMMUNODEFICIENCY VIRUS THAT CAUSES
5 ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS).

6 (G) "LOCAL HEALTH OFFICER" DOES NOT INCLUDE THE BALTIMORE CITY
7 COMMISSIONER OF HEALTH.

8 (H) "PARTICIPANT" MEANS AN INDIVIDUAL WHO HAS REGISTERED WITH A
9 PROGRAM.

10 (I) "PROGRAM" MEANS AN OPIOID-ASSOCIATED DISEASE PREVENTION
11 AND OUTREACH PROGRAM.

12 (J) "RESIDUE" MEANS THE DRIED REMAINS OF A CONTROLLED
13 DANGEROUS SUBSTANCE ATTACHED TO OR CONTAINED WITHIN A HYPODERMIC
14 NEEDLE OR SYRINGE.

15 (K) "SUBSTANCE-RELATED DISORDER" HAS THE MEANING STATED IN
16 § 7.5-101 OF THIS ARTICLE.

17 24-902.

18 (A) (1) A PROGRAM MAY BE ESTABLISHED BY A LOCAL HEALTH
19 DEPARTMENT OR A COMMUNITY-BASED ORGANIZATION, SUBJECT TO THE
20 PROVISIONS OF THIS SUBTITLE.

21 (2) A COMMUNITY-BASED ORGANIZATION MAY ESTABLISH A
22 MULTICOUNTY PROGRAM.

23 (B) IF ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION, A PROGRAM
24 SHALL:

25 (1) PROVIDE FOR SUBSTANCE USE OUTREACH, EDUCATION, AND
26 LINKAGE TO TREATMENT SERVICES, INCLUDING THE EXCHANGE BY PARTICIPANTS
27 OF USED HYPODERMIC NEEDLES AND SYRINGES FOR STERILE HYPODERMIC
28 NEEDLES AND SYRINGES; AND

29 (2) OPERATE IN ACCORDANCE WITH:

1 (I) THE ADVICE OF THE STANDING ADVISORY COMMITTEE;
2 AND

3 (II) THE PROCEDURES, PLANS, AND PROTOCOLS APPROVED BY:

4 1. THE LOCAL HEALTH OFFICER FOR EACH COUNTY IN
5 WHICH A PROGRAM IS ESTABLISHED; AND

6 2. THE DEPARTMENT.

7 24-903.

8 (A) A PROGRAM SHALL:

9 (1) BE DESIGNED AND MAINTAINED TO PROVIDE SECURITY OF
10 EXCHANGE LOCATIONS AND EQUIPMENT, IN ACCORDANCE WITH REGULATIONS
11 ADOPTED BY THE DEPARTMENT;

12 (2) BE OPERATED TO ALLOW PARTICIPANTS TO EXCHANGE USED
13 HYPODERMIC NEEDLES AND SYRINGES AT ANY EXCHANGE LOCATION, IF MORE THAN
14 ONE LOCATION IS AVAILABLE;

15 (3) INCLUDE APPROPRIATE LEVELS OF STAFF EXPERTISE IN
16 WORKING WITH INDIVIDUALS WHO INJECT DRUGS;

17 (4) INCLUDE ADEQUATE STAFF TRAINING IN PROVIDING COMMUNITY
18 REFERRALS, COUNSELING, AND PREVENTIVE EDUCATION;

19 (5) PROVIDE FOR THE DISSEMINATION OF OTHER PREVENTIVE
20 MEANS FOR CURTAILING THE SPREAD OF HIV AND THE HEPATITIS C VIRUS;

21 (6) PROVIDE LINKAGE TO SUBSTANCE-RELATED DISORDER
22 COUNSELING, TREATMENT, AND RECOVERY SERVICES;

23 (7) EDUCATE INDIVIDUALS WHO INJECT DRUGS ON THE DANGERS OF
24 CONTRACTING HIV, THE HEPATITIS B VIRUS, AND THE HEPATITIS C VIRUS
25 THROUGH NEEDLE-SHARING PRACTICES AND UNSAFE SEXUAL BEHAVIORS;

26 (8) ESTABLISH PROCEDURES FOR IDENTIFYING PROGRAM
27 PARTICIPANTS THAT ARE CONSISTENT WITH THE CONFIDENTIALITY PROVISIONS OF
28 THIS SUBTITLE;

1 **(9) ESTABLISH A METHOD OF IDENTIFICATION AND AUTHORIZATION**
2 **FOR PROGRAM STAFF MEMBERS WHO HAVE ACCESS TO HYPODERMIC NEEDLES,**
3 **SYRINGES, OR PROGRAM RECORDS; AND**

4 **(10) DEVELOP A PLAN FOR DATA COLLECTION AND PROGRAM**
5 **EVALUATION IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT.**

6 **(B) WITH THE ADVICE OF THE STANDING ADVISORY COMMITTEE, A**
7 **PROGRAM SHALL DEVELOP:**

8 **(1) PROGRAM OPERATING PROCEDURES FOR THE FURNISHING AND**
9 **EXCHANGE OF HYPODERMIC NEEDLES AND SYRINGES TO INDIVIDUALS WHO INJECT**
10 **DRUGS;**

11 **(2) A COMMUNITY OUTREACH AND EDUCATION PLAN; AND**

12 **(3) A PROTOCOL FOR LINKING PROGRAM PARTICIPANTS TO**
13 **SUBSTANCE-RELATED DISORDER TREATMENT AND RECOVERY SERVICES.**

14 **(C) ON THE RECOMMENDATION OF THE STANDING ADVISORY COMMITTEE,**
15 **A PROGRAM SHALL SUBMIT THE OPERATING PROCEDURES, PLAN FOR COMMUNITY**
16 **OUTREACH AND EDUCATION, AND PROTOCOL FOR LINKING PROGRAM**
17 **PARTICIPANTS TO SUBSTANCE-RELATED DISORDER TREATMENT AND RECOVERY**
18 **SERVICES DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION FOR APPROVAL OR**
19 **DISAPPROVAL BEFORE IMPLEMENTATION TO:**

20 **(1) THE LOCAL HEALTH OFFICER FOR EACH COUNTY IN WHICH A**
21 **PROGRAM IS ESTABLISHED; AND**

22 **(2) THE DEPARTMENT.**

23 **24-904.**

24 **(A) THE DEPARTMENT SHALL APPOINT A STANDING ADVISORY**
25 **COMMITTEE ON OPIOID-ASSOCIATED DISEASE PREVENTION AND OUTREACH**
26 **PROGRAMS.**

27 **(B) THE STANDING ADVISORY COMMITTEE SHALL CONSIST OF:**

28 **(1) THE DEPUTY SECRETARY FOR PUBLIC HEALTH SERVICES;**

29 **(2) ONE INDIVIDUAL FROM ACADEMIA WHO SPECIALIZES IN PUBLIC**
30 **HEALTH ISSUES;**

1 **(3) ONE REPRESENTATIVE FROM LAW ENFORCEMENT, NOMINATED**
2 **BY THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME CONTROL**
3 **AND PREVENTION;**

4 **(4) ONE INDIVIDUAL WITH EXPERTISE IN THE PREVENTION OF HIV**
5 **OR THE HEPATITIS C VIRUS;**

6 **(5) ONE SUBSTANCE-RELATED DISORDER COUNSELOR;**

7 **(6) ONE INDIVIDUAL IN RECOVERY WHO INJECTED DRUGS;**

8 **(7) ONE REPRESENTATIVE OF LOCAL LAW ENFORCEMENT;**

9 **(8) ONE LOCAL HEALTH OFFICER;**

10 **(9) ONE REPRESENTATIVE OF A LOCAL OR REGIONAL HOSPITAL;**

11 **(10) ONE INDIVIDUAL WITH EXPERIENCE IN SYRINGE EXCHANGE**
12 **PROGRAMS; AND**

13 **(11) ANY ADDITIONAL MEMBERS RECOMMENDED BY THE**
14 **DEPARTMENT.**

15 **(C) THE DEPUTY SECRETARY FOR PUBLIC HEALTH SERVICES SHALL**
16 **SERVE AS CHAIR OF THE STANDING ADVISORY COMMITTEE.**

17 **(D) THE STANDING ADVISORY COMMITTEE SHALL:**

18 **(1) ADVISE EACH PROGRAM ON DEVELOPING:**

19 **(I) PROGRAM OPERATING PROCEDURES FOR THE FURNISHING**
20 **AND EXCHANGE OF HYPODERMIC NEEDLES AND SYRINGES TO INDIVIDUALS WHO**
21 **INJECT DRUGS;**

22 **(II) A PLAN FOR COMMUNITY OUTREACH AND EDUCATION; AND**

23 **(III) A PROTOCOL FOR LINKING PROGRAM PARTICIPANTS TO**
24 **SUBSTANCE-RELATED DISORDER TREATMENT AND RECOVERY SERVICES;**

25 **(2) BEFORE A PROGRAM BEGINS OPERATING, REVIEW AND MAKE A**
26 **RECOMMENDATION FOR THE APPROVAL OR DISAPPROVAL OF THE OPERATING**
27 **PROCEDURES, PLAN FOR COMMUNITY OUTREACH AND EDUCATION, AND PROTOCOL**

1 FOR LINKING PROGRAM PARTICIPANTS TO SUBSTANCE-RELATED DISORDER
2 TREATMENT AND RECOVERY SERVICES TO:

3 (I) THE LOCAL HEALTH OFFICER FOR EACH COUNTY IN WHICH
4 A PROGRAM IS LOCATED; AND

5 (II) THE DEPARTMENT; AND

6 (3) MAKE RECOMMENDATIONS TO A PROGRAM REGARDING ANY
7 ASPECT OF PROGRAM PROCEDURES OR OPERATION.

8 24-905.

9 (A) THE DEPARTMENT SHALL:

10 (1) ADOPT REGULATIONS FOR THE IMPLEMENTATION OF THIS
11 SUBTITLE, IN CONSULTATION WITH THE STANDING ADVISORY COMMITTEE AND THE
12 MARYLAND ASSOCIATION OF COUNTY HEALTH OFFICERS; AND

13 (2) ENSURE THE PROVISION OF TECHNICAL ASSISTANCE TO A
14 PROGRAM ABOUT BEST PRACTICES, BEST PRACTICE PROTOCOLS, AND OTHER
15 SUBJECT AREAS.

16 (B) THE REGULATIONS ADOPTED UNDER SUBSECTION (A)(1) OF THIS
17 SECTION SHALL INCLUDE A PLAN FOR SECURITY OF EXCHANGE LOCATIONS AND
18 EQUIPMENT, DATA COLLECTION, AND PROGRAM EVALUATION.

19 24-906.

20 (A) (1) EACH PROGRAM PARTICIPANT SHALL BE ISSUED AN
21 IDENTIFICATION CARD WITH AN IDENTIFICATION NUMBER.

22 (2) THE IDENTIFICATION NUMBER SHALL BE CROSS-INDEXED TO A
23 CONFIDENTIAL RECORD CONTAINING PERTINENT DATA ON THE PARTICIPANT.

24 (B) ANY INFORMATION OBTAINED BY A PROGRAM THAT IDENTIFIES
25 PROGRAM PARTICIPANTS, INCLUDING PROGRAM RECORDS, IS:

26 (1) CONFIDENTIAL;

27 (2) NOT OPEN TO PUBLIC INSPECTION OR DISCLOSURE; AND

28 (3) NOT DISCOVERABLE IN ANY CRIMINAL OR CIVIL PROCEEDING.

1 **(C) (1) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (B) OF THIS**
2 **SECTION, ON THE WRITTEN CONSENT OF A PROGRAM PARTICIPANT, INFORMATION**
3 **OBTAINED BY A PROGRAM THAT IDENTIFIES THE PROGRAM PARTICIPANT MAY BE**
4 **RELEASED OR DISCLOSED TO AN INDIVIDUAL OR AGENCY PARTICIPATING IN A**
5 **PROGRAM.**

6 **(2) IN ADDITION TO THE PROVISIONS OF PARAGRAPH (1) OF THIS**
7 **SUBSECTION, IF A PROGRAM PARTICIPANT RAISES THE ISSUE OF PARTICIPATION IN**
8 **A PROGRAM EITHER AS A SUBJECT MATTER OR LEGAL DEFENSE IN AN**
9 **ADMINISTRATIVE, CIVIL, OR CRIMINAL PROCEEDING, THE PROGRAM PARTICIPANT**
10 **WAIVES THE CONFIDENTIALITY AS TO IDENTITY PROVIDED UNDER SUBSECTION (B)**
11 **OF THIS SECTION.**

12 **(3) SUBSTANCE-RELATED TREATMENT RECORDS REQUESTED OR**
13 **PROVIDED UNDER THIS SECTION ARE SUBJECT TO ANY ADDITIONAL LIMITATIONS**
14 **ON DISCLOSURE OR RE-DISCLOSURE OF A MEDICAL RECORD DEVELOPED IN**
15 **CONNECTION WITH THE PROVISION OF SUBSTANCE-RELATED TREATMENT**
16 **SERVICES UNDER STATE LAW OR 42 U.S.C. § 290DD-2 AND 42 C.F.R. PART 2.**

17 **24-907.**

18 **(A) NO PROGRAM STAFF MEMBER OR PROGRAM PARTICIPANT MAY BE**
19 **FOUND GUILTY OF VIOLATING § 5-601, § 5-619, § 5-620, § 5-902, OR § 5-904 OF THE**
20 **CRIMINAL LAW ARTICLE FOR POSSESSING OR DISTRIBUTING CONTROLLED**
21 **PARAPHERNALIA OR DRUG PARAPHERNALIA WHENEVER THE POSSESSION OR**
22 **DISTRIBUTION OF THE CONTROLLED PARAPHERNALIA OR DRUG PARAPHERNALIA IS**
23 **A DIRECT RESULT OF THE EMPLOYEE'S OR PARTICIPANT'S ACTIVITIES IN**
24 **CONNECTION WITH THE WORK OF A PROGRAM AUTHORIZED UNDER THIS SUBTITLE.**

25 **(B) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (A) OF THIS**
26 **SECTION, A PROGRAM STAFF MEMBER OR PROGRAM PARTICIPANT IS NOT IMMUNE**
27 **FROM CRIMINAL PROSECUTION FOR:**

28 **(1) ANY ACTIVITIES NOT AUTHORIZED OR APPROVED BY A PROGRAM;**
29 **OR**

30 **(2) THE POSSESSION OR DISTRIBUTION OF CONTROLLED**
31 **PARAPHERNALIA OR DRUG PARAPHERNALIA OR ANY OTHER UNLAWFUL ACTIVITY**
32 **OUTSIDE THE COUNTY LIMITS FOR ANY COUNTY IN WHICH A PROGRAM IS**
33 **ESTABLISHED.**

34 **24-908.**

1 **EXCEPT FOR VIOLATIONS OF ANY LAWS THAT COULD ARISE FROM RESIDUE**
2 **ATTACHED TO OR CONTAINED WITHIN HYPODERMIC NEEDLES OR SYRINGES BEING**
3 **RETURNED OR ALREADY RETURNED TO A PROGRAM, NOTHING IN THIS SUBTITLE**
4 **PROVIDES IMMUNITY TO A PROGRAM STAFF MEMBER OR PROGRAM PARTICIPANT**
5 **FROM CRIMINAL PROSECUTION FOR A VIOLATION OF ANY LAW PROHIBITING OR**
6 **REGULATING THE USE, POSSESSION, DISPENSING, DISTRIBUTION, OR PROMOTION**
7 **OF CONTROLLED DANGEROUS SUBSTANCES, DANGEROUS DRUGS, DETRIMENTAL**
8 **DRUGS, OR HARMFUL DRUGS OR ANY CONSPIRACY OR ATTEMPT TO COMMIT ANY OF**
9 **THOSE OFFENSES.**

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2016.