

1 HOUSE BILL 263

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Tara L. Lujan and Dayan Hochman-Vigil

5
6
7
8
9
10 AN ACT

11 RELATING TO PUBLIC HEALTH; AMENDING THE HARM REDUCTION ACT TO
12 CREATE THE OVERDOSE PREVENTION PROGRAM; LIMITING CIVIL AND
13 CRIMINAL LIABILITY FOR PEOPLE ACTING PURSUANT TO THE HARM
14 REDUCTION ACT.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 24-2C-1 NMSA 1978 (being Laws 1997,
18 Chapter 256, Section 1) is amended to read:

19 "24-2C-1. SHORT TITLE.--~~[Sections 1 through 6 of this~~
20 ~~act]~~ Chapter 24, Article 2C NMSA 1978 may be cited as the "Harm
21 Reduction Act"."

22 SECTION 2. Section 24-2C-3 NMSA 1978 (being Laws 1997,
23 Chapter 256, Section 3, as amended) is amended to read:

24 "24-2C-3. DEFINITIONS.--As used in the Harm Reduction
25 Act:

.224044.3

underscored material = new
[bracketed material] = delete

underscoring material = new
[bracketed material] = delete

1 A. "department" means the department of health; and

2 B. "participant" means a person who receives
3 supplies or devices or services provided by the harm reduction
4 program or the overdose prevention program."

5 SECTION 3. Section 24-2C-4 NMSA 1978 (being Laws 1997,
6 Chapter 256, Section 4, as amended) is amended to read:

7 "24-2C-4. HARM REDUCTION PROGRAM CREATED--OVERDOSE
8 PREVENTION PROGRAM CREATED--DEPARTMENT RESPONSIBILITIES.--

9 A. The department shall:

10 (1) establish and administer a program that
11 shall be known as the "harm reduction program" to reduce
12 overdose mortality and other negative health outcomes
13 associated with drug use;

14 (2) establish and administer a program that
15 shall be known as the "overdose prevention program" to reduce
16 death, disease and injury associated with drug use;

17 ~~(2)~~ (3) pursuant to rules established by the
18 department, qualify persons as harm reduction or overdose
19 prevention program participants, issue a document that
20 identifies the bearer of the document as a participant and
21 provide the bearer of the document with access to supplies,
22 devices or services provided by the program;

23 ~~(3)~~ (4) compile data to assist in planning
24 and evaluating efforts to combat overdose mortality and other
25 negative health outcomes associated with drug use. The

.224044.3

underscoring material = new
[bracketed material] = delete

1 department shall not collect personal data, such as the name,
2 date of birth or address of participants; and

3 [~~(4)~~] (5) make an annual report, including
4 legislative recommendations, to the legislative health and
5 human services committee by October 1 each year.

6 B. The department shall appoint an advisory
7 committee to include representation from:

8 (1) the office of the attorney general;

9 (2) the New Mexico state police division of
10 the department of public safety;

11 (3) the infectious disease prevention and
12 control bureau of the department;

13 (4) the director of the epidemiology and
14 response division of the department or the director's designee;

15 (5) a medical officer of the public health
16 division of the department; and

17 (6) other persons or representatives as chosen
18 by the secretary of health to ensure a thorough and unbiased
19 evaluation of the [~~program~~] programs established under the Harm
20 Reduction Act.

21 C. The advisory committee shall:

22 (1) develop policies and procedures for
23 evaluation of the harm reduction [~~program~~] and overdose
24 prevention programs;

25 (2) develop criteria for data collection and

underscored material = new
[bracketed material] = delete

1 program evaluation; and

2 (3) meet as necessary to monitor and analyze
3 data and produce a report on the [~~harm reduction program's~~]
4 impact of the harm reduction program and the overdose
5 prevention program on overdose mortality and other negative
6 health outcomes associated with drug use.

7 D. The department may contract with private
8 providers to operate the harm reduction program and the
9 overdose prevention program.

10 E. The department shall promulgate rules as
11 necessary for the administration of the Harm Reduction Act,
12 including developing criteria for the types of supplies or
13 devices provided pursuant to the harm reduction [~~program~~] and
14 overdose prevention programs and standards for distribution of
15 those supplies or devices through [~~that program~~] those
16 programs. The criteria and standards shall be developed to
17 provide supplies and devices in order to reduce:

18 (1) cases of negative health outcomes
19 associated with drug use, such as overdoses or the spread of
20 infectious disease; and

21 (2) harm by promoting reduced use of non-
22 sterile items and improving participant engagement in harm
23 reduction services and prevention education.

24 F. When promulgating rules pursuant to the Harm
25 Reduction Act, the department shall consider the feasibility

.224044.3

underscoring material = new
[bracketed material] = delete

1 of:

- 2 (1) co-locating harm reduction and overdose
3 prevention services with other health care services; and
4 (2) providing mobile overdose prevention
5 services."

6 SECTION 4. Section 24-2C-5 NMSA 1978 (being Laws 1997,
7 Chapter 256, Section 5, as amended) is amended to read:

8 "24-2C-5. ~~[PROGRAM]~~ PROGRAMS.--

9 A. The harm reduction program and the overdose
10 prevention program shall provide participants with:

11 ~~[A.]~~ (1) sterile hypodermic syringes and
12 needles in exchange for used hypodermic syringes, needles or
13 other objects used to inject controlled substances or
14 controlled substance analogs into the human body;

15 ~~[B.]~~ (2) other objects used to prepare or
16 consume controlled substances or controlled substance analogs;

17 ~~[C.]~~ (3) supplies or devices used for testing
18 controlled substances or controlled substance analogs for
19 potentially dangerous adulterants;

20 ~~[D.]~~ (4) supplies or devices approved by the
21 department for distribution in accordance with rules
22 established pursuant to Subsection E of Section 24-2C-4 NMSA
23 1978;

24 ~~[E.]~~ (5) education on the prevention of:

25 ~~[1.]~~ (a) the transmission of the human

underscoring material = new
[bracketed material] = delete

1 immunodeficiency virus and hepatitis B and C; and

2 [~~(2)~~] (b) drug overdose mortality and
3 other negative health outcomes; and

4 [~~F-~~] (6) referral to substance abuse treatment
5 services.

6 B. The overdose prevention program shall provide
7 participants with a safe and hygienic space to administer and
8 consume previously obtained controlled substances under the
9 supervision of personnel trained in overdose reversal.

10 C. Controlled substances shall not be sold,
11 purchased, traded or otherwise provided to harm reduction or
12 overdose prevention program participants, except as otherwise
13 allowed by law."

14 SECTION 5. A new section of the Harm Reduction Act is
15 enacted to read:

16 "[NEW MATERIAL] LIMITING CIVIL AND CRIMINAL LIABILITY.--
17 Any person or entity, including a property owner, director,
18 manager, employee, volunteer or participant of the harm
19 reduction program or the overdose prevention program that is
20 acting pursuant to the Harm Reduction Act and in accordance
21 with all rules promulgated pursuant to that act shall not be
22 subject to:

23 A. arrest, charge, prosecution or any other
24 criminal liability relating to the Controlled Substances Act
25 for any action or conduct that occurs on the site of a harm

.224044.3

underscoring material = new
~~[bracketed material] = delete~~

1 reduction program or overdose prevention program;

2 B. disciplinary action by a professional licensing
3 board for any action or conduct that occurs on the site of a
4 harm reduction program or overdose prevention program, unless
5 the action or conduct is in violation of the board's
6 established ethical rules; or

7 C. any civil or administrative penalty or liability
8 for conduct relating to the operation, inspection, licensing or
9 administration of a harm reduction program or overdose
10 prevention program unless the conduct is negligent or
11 reckless."