

1 HOUSE BILL 123

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Deborah A. Armstrong

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10 AN ACT

11 RELATING TO PUBLIC HEALTH; ALLOWING MUNICIPAL AND COUNTY
12 ESTABLISHMENT OF OVERDOSE PREVENTION PROGRAMS; PROVIDING FOR
13 LIMITED IMMUNITY FROM THE CONTROLLED SUBSTANCES ACT FOR PERSONS
14 WHO ESTABLISH, PROVIDE PREMISES FOR, PROVIDE SERVICES PURSUANT
15 TO OR USE AN ESTABLISHED OVERDOSE PREVENTION PROGRAM.

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17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. A new section of Chapter 3, Article 18 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] OVERDOSE PREVENTION PROGRAM AUTHORIZED.--

21 After consultation with and upon consideration of guidelines
22 prescribed by the department of health, a municipality may
23 adopt an ordinance to approve entities within the
24 municipality's jurisdiction to establish and operate overdose
25 prevention programs within the municipality for the purpose of

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1 reducing death, disease or injury due to the use of controlled
2 substances. A municipality shall require that an approved
3 overdose prevention program:

4 A. provide a safe and hygienic space supervised by
5 trained staff where a person may consume pre-obtained drugs;

6 B. provide access or referrals to substance use
7 disorder treatment services, medical services, mental health
8 services or social services; or

9 C. monitor participants for potential overdose and
10 provide care as necessary and as permitted by law to prevent
11 fatal overdose."

12 SECTION 2. A new section of Chapter 4, Article 37 NMSA
13 1978 is enacted to read:

14 "[NEW MATERIAL] OVERDOSE PREVENTION PROGRAM AUTHORIZED.--
15 After consultation with and upon consideration of guidelines
16 prescribed by the department of health, a county may adopt an
17 ordinance to approve entities within the county's jurisdiction
18 to establish and operate overdose prevention programs within
19 the county for the purpose of reducing death, disease, or
20 injury due to the use of controlled substances. A county shall
21 require that an approved overdose prevention program:

22 A. provide a safe and hygienic space supervised by
23 trained staff where a person may consume pre-obtained drugs;

24 B. provide access or referrals to substance use
25 disorder treatment services, medical services, mental health

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1 services or social services; or

2 C. monitor participants for potential overdose and
3 provide care as necessary and as permitted by law to prevent
4 fatal overdose."

5 SECTION 3. A new section of the Controlled Substances Act
6 is enacted to read:

7 "[NEW MATERIAL] OVERDOSE PREVENTION PROGRAM--LIMITED
8 IMMUNITY.--A person who establishes, provides premises for,
9 provides services pursuant to or uses an overdose prevention
10 program established in accordance with Section 1 or 2 of this
11 2021 act shall not be arrested, charged, prosecuted or
12 otherwise penalized, nor shall the property of the person be
13 subject to civil forfeiture, for violating any of the following
14 if the alleged violation was for establishing, providing
15 premises for, providing services pursuant to or using that
16 overdose prevention program:

17 A. the provisions of Section 30-31-23 NMSA 1978 or
18 Subsection A of Section 30-31-25.1 NMSA 1978;

19 B. a restraining order; or

20 C. the conditions of probation or parole."

21 SECTION 4. TEMPORARY PROVISION--DEPARTMENT OF HEALTH
22 GUIDELINES FOR OVERDOSE PREVENTION PROGRAMS.--The department of
23 health shall, by October 1, 2021, prescribe guidelines for
24 overdose prevention programs that may be established by
25 municipalities and counties pursuant to this 2021 act.

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SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 through 3 of this act is January 1, 2022.