

HOUSE BILL 263

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

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

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

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

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

.224044.3AIC March 9, 2023 (10:47am)

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

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

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

- A. "department" means the department of health; and
- B. "participant" means a person who receives supplies or devices or services provided by the harm reduction program or the overdose prevention program."

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

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

A. The department shall:

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

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

~~(2)~~ (3) pursuant to rules established by the department, qualify persons as harm reduction or overdose

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prevention program participants, issue a document that identifies the bearer of the document as a participant and provide the bearer of the document with access to supplies, devices or services provided by the program;

[~~(3)~~] (4) compile data to assist in planning and evaluating efforts to combat overdose mortality and other negative health outcomes associated with drug use. The department shall not collect HJC~~personal data, such as the name, date of birth or address of participants~~~~HJC~~ HJCthe full name or address of participants, except as required by law for testing, treatment of infectious disease or other medical treatment~~HJC~~ ; and

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

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

- (1) the office of the attorney general;
- (2) the New Mexico state police division of the department of public safety;
- (3) the infectious disease prevention and control bureau of the department;
- (4) the director of the epidemiology and response division of the department or the director's designee;
- (5) a medical officer of the public health

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division of the department; and

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

C. The advisory committee shall:

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

(2) develop criteria for data collection and program evaluation; and

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

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

E. The department shall promulgate rules as necessary for the administration of the Harm Reduction Act, including developing criteria for the types of supplies or devices provided pursuant to the harm reduction ~~[program]~~ and overdose prevention programs and standards for distribution of those supplies or devices through ~~[that program]~~ those

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programs. The criteria and standards shall be developed to provide supplies and devices in order to reduce:

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

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

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

(1) co-locating harm reduction and overdose prevention services with other health care services; and

(2) providing mobile overdose prevention services."

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

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

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

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

~~[B.]~~ (2) other objects used to prepare or

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consume controlled substances or controlled substance analogs;

[G-] (3) supplies or devices used for testing controlled substances or controlled substance analogs for potentially dangerous adulterants;

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

[E-] (5) education on the prevention of:

[(-1)] (a) the transmission of the human immunodeficiency virus and hepatitis B and C; and

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

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

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

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

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

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"[NEW MATERIAL] LIMITING CIVIL AND CRIMINAL LIABILITY.--

Any person or entity, including a property owner, director, manager, employee, volunteer or participant of the harm reduction program or the overdose prevention program that is acting pursuant to the Harm Reduction Act and in accordance with all rules promulgated pursuant to that act shall not be subject to:

A. arrest, charge, prosecution or any other criminal liability relating to the Controlled Substances Act for any action or conduct that occurs on the site of a harm reduction program or overdose prevention program;

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

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