

HOUSE BILL 973

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

Introduced and read first time: February 13, 2015

Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

Local AIDS Prevention Sterile Needle and Syringe Exchange Programs

FOR the purpose of repealing a requirement that an AIDS Prevention Sterile Needle and Syringe Exchange Program may only be established in the Prince George's County Health Department; authorizing the establishment of an AIDS Prevention Sterile Needle and Syringe Exchange Program by certain entities in any jurisdiction; repealing a requirement that the Program provide for the exchange of used hypodermic needles and syringes on a one-for-one basis; authorizing a community-based organization to establish a certain Program with certain approval; repealing a requirement that the Program include policies and procedures for the screening of applicants to the Program for a certain purpose; repealing a requirement that the County Executive of Prince George's County or the County Executive's designee appoint a certain advisory committee for the Program; requiring a designee of the governing body to appoint a certain advisory committee for the Program; altering the membership and duties of a certain advisory committee; repealing a requirement that the local health officer for Prince George's County appoint a certain director; requiring a local health officer to appoint a certain director; altering the duties of a certain director; repealing a requirement that the health officer for Prince George's County include certain operating procedures in the Program and develop and implement a certain plan; requiring a local health officer to include certain operating procedures in the Program and develop and implement a certain plan; altering a certain immunity from criminal prosecution for Program staff members and participants; defining certain terms; and generally relating to local AIDS Prevention Sterile Needle and Syringe Exchange Programs.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 24-901 through 24-906, and 24-908 to be under the amended subtitle
“Subtitle 9. AIDS Prevention Sterile Needle and Syringe Exchange Programs”

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2009 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 24–907 and 24–909
Annotated Code of Maryland
(2009 Replacement Volume and 2014 Supplement)

Preamble

WHEREAS, Overdose deaths in Maryland have increased dramatically over the past 5 years, specifically from opioid use, and syringe exchange programs provide an opportunity to distribute naloxone and provide overdose prevention education directly to individuals at risk of overdose; and

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

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

WHEREAS, Syringe exchange programs have a public health impact that is cost effective; and

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

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

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

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

WHEREAS, Syringe exchange programs provide access to individuals who use drugs and engage these individuals in health–related services; and

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

WHEREAS, Syringe exchange programs provide an opportunity to refer individuals who use drugs to substance use disorder treatment; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

Subtitle 9. **[Prince George’s County] AIDS Prevention Sterile Needle and Syringe Exchange [Program] PROGRAMS.**

24–901.

(a) In this subtitle the following words have the meanings indicated.

(B) “COMMUNITY–BASED ORGANIZATION” MEANS A PUBLIC OR PRIVATE ORGANIZATION THAT IS REPRESENTATIVE OF A COMMUNITY OR SIGNIFICANT SEGMENTS OF A COMMUNITY AND PROVIDES EDUCATIONAL, HEALTH, OR SOCIAL SERVICES TO INDIVIDUALS IN THE COMMUNITY.

(C) “GOVERNING BODY” HAS THE MEANING STATED IN § 1–101 OF THE LOCAL GOVERNMENT ARTICLE.

[(b)] (D) “HIV” means the human immunodeficiency virus that causes acquired immune deficiency syndrome (AIDS).

[(c)] (E) “Participant” means an individual who has registered with the Program.

[(d)] (F) “Program” means [the Prince George’s County] A LOCAL AIDS Prevention Sterile Needle and Syringe Exchange Program.

[(e)] (G) “Residue” means the dried remains of a controlled dangerous substance attached to or contained within a hypodermic needle or syringe.

24–902.

(a) An AIDS Prevention Sterile Needle and Syringe Exchange Program may be established **[in the Prince George’s County Health Department] BY A COMMUNITY–BASED ORGANIZATION OR A LOCAL HEALTH DEPARTMENT IN ANY JURISDICTION**, subject to the provisions of this subtitle.

(b) If established under subsection (a) of this section, the Program shall:

(1) Provide for the ~~[one-for-one]~~ exchange by participants of used hypodermic needles and syringes for sterile hypodermic needles and syringes; and

(2) Operate in accordance with the procedures approved, with the advice of the advisory committee, by the local health officer for ~~[Prince George's County]~~ **THE JURISDICTION.**

(C) A COMMUNITY-BASED ORGANIZATION MAY ESTABLISH A PROGRAM WITH THE APPROVAL OF THE LOCAL HEALTH OFFICER AND THE ADVISORY COMMITTEE ESTABLISHED UNDER § 24-904 OF THIS SUBTITLE.

24-903.

The Program shall:

(1) Be designed and maintained to provide maximum security of exchange locations and equipment, including security measures that may be required to control the use and dispersal of hypodermic needles and syringes and security measures that allow for a full accounting of the number of hypodermic needles and syringes in circulation and the number of hypodermic needles and syringes in storage;

(2) Be operated to allow participants to exchange used hypodermic needles and syringes at any exchange location, if more than one location is available;

(3) Include appropriate levels of staff expertise in working with injecting drug users and adequate staff training in providing community referrals, counseling, and preventive education;

(4) Provide for the dissemination of other preventive means for curtailing the spread of the HIV infection;

(5) Provide referrals to drug counseling and treatment services;

(6) Educate injecting drug users on the dangers of contracting the HIV infection or the hepatitis B virus through needle-sharing practices and unsafe sexual behaviors;

(7) ~~[Include policies and procedures for the screening of applicants to the Program in order to preclude noninjecting drug users from participating in the Program;~~

~~(8)]~~ Establish procedures for identifying Program participants that are consistent with the confidentiality provisions of this subtitle; and

~~[(9)]~~ **(8)** Establish a method of identification and authorization for Program staff members who have access to hypodermic needles, syringes, or Program records.

24-904.

(a) [The County Executive of Prince George's County or the County Executive's designee] **A DESIGNEE OF THE GOVERNING BODY** shall appoint an advisory committee for the Program.

(b) The advisory committee shall consist of:

(1) Two representatives from academia who specialize in public health issues;

(2) One representative from law enforcement, nominated by the Secretary of the Department of Public Safety and Correctional Services;

(3) One representative of the [Prince George's County Police Department] **LOCAL POLICE DEPARTMENT**;

(4) One representative from the Department of Health and Mental Hygiene, nominated by the Secretary of Health and Mental Hygiene;

(5) One representative of a [Prince George's County] **LOCAL** community group;

(6) One representative of an AIDS advocacy group;

(7) One drug abuse treatment counselor;

(8) One recovering injecting drug user; and

(9) Up to three other individuals whom the [County Executive of Prince George's County or the County Executive's] designee **OF THE GOVERNING BODY** determines to be appropriate for appointment to the advisory committee.

(c) The advisory committee shall:

(1) Provide advice to the local health officer [for Prince George's County] and the Program Director on developing:

(i) Program operating procedures for the furnishing, identifying, and [one-for-one] exchange of hypodermic needles and syringes to injecting drug users;

(ii) A plan for community outreach and education;

(iii) A protocol for referring Program participants to substance abuse treatment and rehabilitation; and

(iv) A plan for evaluating the Program;

(2) Before the Program begins operating, review and make a recommendation to the local health officer [for Prince George's County] for the approval or disapproval of:

(i) The Program operating procedures for the furnishing and [one-for-one] exchange of hypodermic needles and syringes to injecting drug users;

(ii) The community outreach and education plan;

(iii) The protocol for referring Program participants to substance abuse treatment and rehabilitation; and

(iv) The plan for evaluating the Program; and

(3) Make recommendations to the Program Director or the local health officer [for Prince George's County] regarding any aspect of Program procedures, operation, or evaluation.

24-905.

(a) The local health officer [for Prince George's County] shall appoint a Director for the Program.

(b) With the advice of the advisory committee, the Director shall develop:

(1) Program operating procedures for the furnishing, identifying, and [one-for-one] exchange of hypodermic needles and syringes to injecting drug users;

(2) A community outreach and education program; and

(3) A protocol for referring Program participants to substance abuse treatment and rehabilitation.

(c) The Director shall submit the operating procedures, the plan for a community outreach and education program, and the substance abuse treatment referral protocol to the local health officer [for Prince George's County] for approval prior to implementation.

24-906.

(a) The local health officer [for Prince George's County] shall include in the Program operating procedures measures to collect the following data:

(1) The number of participants served by the Program;

- (2) The length of time a participant is served by the Program;
- (3) Demographic profiles of participants served by the Program that include:
- (i) Age;
 - (ii) Sex;
 - (iii) Race;
 - (iv) Occupation;
 - (v) Zip code of residence;
 - (vi) Types of drugs used;
 - (vii) Length of drug use; and
 - (viii) Frequency of injection;
- (4) The number of hypodermic needles and syringes exchanged; and
- (5) The number of participants entering drug counseling and treatment.

(b) With the advice of the advisory committee, the local health officer [for Prince George's County] shall develop and implement a plan for Program evaluation as appropriate based on the prevailing knowledge at the time. The plan may include:

- (1) Reported changes in the level of drug use among Program participants;
 - (2) Reported changes in the level of needle-sharing among Program participants;
 - (3) Reported changes in the use of condoms among Program participants;
- and
- (4) The advisability of continuing the Program.

24-907.

(a) (1) Each Program participant shall be issued an identification card with an identification number.

(2) The identification number shall be cross-indexed to a confidential record containing pertinent data on the participant.

(b) Any information obtained by the Program that would identify Program participants, including Program records, is:

- (1) Confidential;
- (2) Not open to public inspection or disclosure; and
- (3) Not discoverable in any criminal or civil proceeding.

(c) (1) Notwithstanding the provisions of subsection (b) of this section, on the written consent of a Program participant, information obtained by the Program that identifies the Program participant may be released or disclosed to a person or agency participating in the Program.

(2) In addition to the provisions of paragraph (1) of this subsection, if a Program participant raises the issue of participation in the Program either as a subject matter or legal defense in an administrative, civil, or criminal proceeding, the Program participant waives the confidentiality as to identity provided under subsection (b)(1) of this section.

24-908.

(a) No Program staff member or Program participant may be found guilty of violating § 5-601, § 5-619, § 5-620, § 5-902, or § 5-904 of the Criminal Law Article for possessing or distributing controlled paraphernalia or drug paraphernalia whenever the possession or distribution of the controlled paraphernalia or drug paraphernalia is a direct result of the employee's or participant's activities in connection with the work of the Program authorized under this subtitle.

(b) Notwithstanding the provisions of subsection (a) of this section, a Program staff member or Program participant is not immune from criminal prosecution for:

- (1) [The redistribution of hypodermic needles or syringes in any form;
- (2)] Any activities not authorized or approved by the Program; or

[(3)] (2) The possession or distribution of controlled paraphernalia or drug paraphernalia or any other unlawful activity outside of the [Prince George's County limits] **PROGRAM'S JURISDICTION.**

24-909.

Except for violations of any laws that could arise from residue attached to or contained within hypodermic needles or syringes being returned or already returned to the Program, nothing in this subtitle provides immunity to a Program staff member or Program participant from criminal prosecution for a violation of any law prohibiting or regulating

the use, possession, dispensing, distribution, or promotion of controlled dangerous substances, dangerous drugs, detrimental drugs, or harmful drugs or any conspiracy or attempt to commit any of those offenses.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2015.