

HOUSE BILL 244

Unofficial Copy  
J1

1998 Regular Session  
8r0673  
CF 8r1535

---

By: **Delegates Menes, Montague, R. Baker, Eckardt, Frush, Grosfeld,  
Hutchins, and Moe**

Introduced and read first time: January 26, 1998

Assigned to: Environmental Matters

---

A BILL ENTITLED

1 AN ACT concerning

2 **Needle Exchange Program - Statewide Expansion**

3 FOR the purpose of allowing counties to establish an AIDS prevention sterile needle  
4 and syringe exchange program; specifying the goals and objectives of a needle  
5 exchange program; specifying the duties and responsibilities of the director of  
6 the needle exchange program under this Act; providing for the appointment of a  
7 certain oversight committee; specifying membership, duties, and responsibilities  
8 of an oversight committee; providing certain immunities for certain persons;  
9 restricting the disclosure of certain program information; and generally relating  
10 to the authorization for the establishment of a needle exchange program in each  
11 county.

12 BY adding to

13 Article - Health - General

14 Section 24-901 through 24-909 to be under the new subtitle "Subtitle 9.

15 Statewide Needle Exchange Program"

16 Annotated Code of Maryland

17 (1996 Replacement Volume and 1997 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Health - General**

21 **SUBTITLE 9. STATEWIDE NEEDLE EXCHANGE PROGRAM.**

22 24-901.

23 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS

24 INDICATED.

25 (B) "CHIEF EXECUTIVE OFFICER" MEANS THE CHIEF EXECUTIVE OFFICER OF

26 A COUNTY OR, IF THE COUNTY DOES NOT ELECT A CHIEF EXECUTIVE OFFICER, THE

27 PRESIDING OFFICER OF THE LOCAL GOVERNING BODY.

1 (C) "HIV" MEANS THE HUMAN IMMUNODEFICIENCY VIRUS THAT CAUSES  
2 ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS).

3 (D) "PARTICIPANT" MEANS AN INDIVIDUAL WHO HAS REGISTERED WITH THE  
4 PROGRAM.

5 (E) "PROGRAM" MEANS THE AIDS PREVENTION STERILE NEEDLE AND  
6 SYRINGE EXCHANGE PROGRAM.

7 (F) "RESIDUE" MEANS THE DRIED REMAINS OF A CONTROLLED DANGEROUS  
8 SUBSTANCE ATTACHED TO OR CONTAINED WITHIN A HYPODERMIC NEEDLE OR  
9 SYRINGE.

10 24-902.

11 (A) (1) A COUNTY MAY ESTABLISH AN AIDS PREVENTION STERILE NEEDLE  
12 AND SYRINGE EXCHANGE PROGRAM, SUBJECT TO THE PROVISIONS OF THIS  
13 SUBTITLE.

14 (2) BALTIMORE CITY IS EXEMPT FROM THE PROVISIONS OF THIS  
15 SUBTITLE.

16 (B) THE PROGRAM SHALL:

17 (1) PROVIDE FOR THE ONE-FOR-ONE EXCHANGE BY PARTICIPANTS OF  
18 USED HYPODERMIC NEEDLES AND SYRINGES FOR STERILE HYPODERMIC NEEDLES  
19 AND SYRINGES; AND

20 (2) OPERATE IN ACCORDANCE WITH THE PROCEDURES APPROVED,  
21 WITH THE ADVICE AND APPROVAL OF THE OVERSIGHT COMMITTEE, BY THE COUNTY  
22 HEALTH OFFICER.

23 24-903.

24 THE PROGRAM SHALL:

25 (1) BE DESIGNED AND MAINTAINED TO PROVIDE MAXIMUM SECURITY  
26 OF EXCHANGE LOCATIONS AND EQUIPMENT, INCLUDING SECURITY MEASURES  
27 THAT MAY BE REQUIRED TO CONTROL THE USE AND DISPERSAL OF HYPODERMIC  
28 NEEDLES AND SYRINGES AND SECURITY MEASURES THAT ALLOW FOR A FULL  
29 ACCOUNTING OF THE NUMBER OF HYPODERMIC NEEDLES AND SYRINGES IN  
30 CIRCULATION AND THE NUMBER OF HYPODERMIC NEEDLES AND SYRINGES IN  
31 STORAGE;

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

1 (3) INCLUDE APPROPRIATE LEVELS OF STAFF EXPERTISE IN WORKING  
2 WITH INJECTING DRUG USERS AND ADEQUATE STAFF TRAINING IN PROVIDING  
3 COMMUNITY REFERRALS, COUNSELING, AND PREVENTIVE EDUCATION;

4 (4) PROVIDE FOR THE DISSEMINATION OF OTHER PREVENTIVE MEANS  
5 FOR CURTAILING THE SPREAD OF THE HIV INFECTION;

6 (5) PROVIDE A LINKAGE FOR REFERRALS TO DRUG COUNSELING AND  
7 TREATMENT SERVICES, AND FOLLOW-UP TO THOSE REFERRALS TO ASSURE THAT  
8 PARTICIPANTS RECEIVE THE TREATMENT THEY DESIRE;

9 (6) EDUCATE INJECTING DRUG USERS ON THE DANGERS OF  
10 CONTRACTING THE HIV INFECTION OR THE HEPATITIS B VIRUS THROUGH  
11 NEEDLE-SHARING PRACTICES AND UNSAFE SEXUAL BEHAVIORS;

12 (7) INCLUDE POLICIES AND PROCEDURES FOR THE SCREENING OF  
13 APPLICANTS TO THE PROGRAM IN ORDER TO PRECLUDE NONINJECTING DRUG  
14 USERS FROM PARTICIPATING IN THE PROGRAM;

15 (8) ESTABLISH PROCEDURES FOR IDENTIFYING PROGRAM  
16 PARTICIPANTS THAT ARE CONSISTENT WITH THE CONFIDENTIALITY PROVISIONS OF  
17 THIS SUBTITLE; AND

18 (9) ESTABLISH A METHOD OF IDENTIFICATION AND AUTHORIZATION  
19 FOR PROGRAM STAFF MEMBERS WHO HAVE ACCESS TO HYPODERMIC NEEDLES,  
20 SYRINGES, OR PROGRAM RECORDS.

21 24-904.

22 (A) THE CHIEF EXECUTIVE OFFICER SHALL APPOINT AN OVERSIGHT  
23 COMMITTEE FOR THE PROGRAM.

24 (B) THE OVERSIGHT COMMITTEE SHALL CONSIST OF:

25 (1) ONE REPRESENTATIVE FROM LAW ENFORCEMENT, NOMINATED BY  
26 THE SECRETARY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL  
27 SERVICES;

28 (2) ONE REPRESENTATIVE FROM THE LOCAL LAW ENFORCEMENT  
29 AGENCY;

30 (3) TWO REPRESENTATIVES FROM THE DEPARTMENT OF HEALTH AND  
31 MENTAL HYGIENE OR THE DEPARTMENT OF JUVENILE JUSTICE, NOMINATED BY THE  
32 SECRETARY OF HEALTH AND MENTAL HYGIENE;

33 (4) ONE REPRESENTATIVE OF AN AIDS ADVOCACY GROUP;

34 (5) ONE DRUG ABUSE TREATMENT COUNSELOR; AND

35 (6) ONE RECOVERING INJECTING DRUG USER.

1 (C) IN ADDITION THE OVERSIGHT COMMITTEE MAY CONSIST OF:

2 (1) TWO REPRESENTATIVES FROM ACADEMIA WHO SPECIALIZE IN  
3 PUBLIC HEALTH ISSUES;

4 (2) ONE REPRESENTATIVE FROM THE DEPARTMENT OF EDUCATION;

5 (3) ONE REPRESENTATIVE OF A COUNTY COMMUNITY GROUP; AND

6 (4) OTHER INDIVIDUALS WHOM THE CHIEF EXECUTIVE OFFICER  
7 DETERMINES TO BE APPROPRIATE FOR APPOINTMENT TO THE OVERSIGHT  
8 COMMITTEE.

9 (D) THE OVERSIGHT COMMITTEE SHALL:

10 (1) PROVIDE ADVICE TO THE COUNTY HEALTH OFFICER AND THE  
11 PROGRAM DIRECTOR ON DEVELOPING:

12 (I) PROGRAM OPERATING PROCEDURES FOR THE FURNISHING  
13 AND ONE-FOR-ONE EXCHANGE OF HYPODERMIC NEEDLES AND SYRINGES TO  
14 INJECTING DRUG USERS;

15 (II) A PLAN FOR COMMUNITY OUTREACH AND EDUCATION;

16 (III) A PROTOCOL FOR PROVIDING A LINKAGE FOR PROGRAM  
17 PARTICIPANTS TO SUBSTANCE ABUSE TREATMENT AND REHABILITATION; AND

18 (IV) A PLAN FOR EVALUATING THE PROGRAM;

19 (2) BEFORE THE PROGRAM BEGINS OPERATING, REVIEW AND MAKE A  
20 RECOMMENDATION TO THE COUNTY HEALTH OFFICER FOR THE APPROVAL OR  
21 DISAPPROVAL OF:

22 (I) THE PROGRAM OPERATING PROCEDURES FOR THE  
23 FURNISHING AND ONE-FOR-ONE EXCHANGE OF HYPODERMIC NEEDLES AND  
24 SYRINGES TO INJECTING DRUG USERS;

25 (II) THE COMMUNITY OUTREACH AND EDUCATION PLAN;

26 (III) THE PROTOCOL FOR PROVIDING A LINKAGE FOR PROGRAM  
27 PARTICIPANTS TO SUBSTANCE ABUSE TREATMENT AND REHABILITATION; AND

28 (IV) THE PLAN FOR EVALUATING THE PROGRAM; AND

29 (3) PROVIDE ONGOING OVERSIGHT OF THE PROGRAM AND MAKE  
30 RECOMMENDATIONS TO THE PROGRAM DIRECTOR OR THE COUNTY HEALTH  
31 OFFICER REGARDING ANY ASPECT OF PROGRAM PROCEDURES, OPERATION, OR  
32 EVALUATION.

1 24-905.

2 (A) THE COUNTY HEALTH OFFICER SHALL APPOINT A DIRECTOR FOR THE  
3 PROGRAM.

4 (B) WITH THE ADVICE AND APPROVAL OF THE OVERSIGHT COMMITTEE, THE  
5 DIRECTOR SHALL DEVELOP:

6 (1) PROGRAM OPERATING PROCEDURES FOR THE FURNISHING AND  
7 ONE-FOR-ONE EXCHANGE OF HYPODERMIC NEEDLES AND SYRINGES TO INJECTING  
8 DRUG USERS;

9 (2) A COMMUNITY OUTREACH AND EDUCATION PROGRAM; AND

10 (3) A PROTOCOL FOR PROVIDING A LINKAGE FOR PROGRAM  
11 PARTICIPANTS TO SUBSTANCE ABUSE TREATMENT AND REHABILITATION.

12 (C) THE DIRECTOR SHALL SUBMIT THE OPERATING PROCEDURES, THE PLAN  
13 FOR A COMMUNITY OUTREACH AND EDUCATION PROGRAM, AND THE SUBSTANCE  
14 ABUSE TREATMENT LINKAGE PROTOCOL TO THE COUNTY HEALTH OFFICER FOR  
15 APPROVAL PRIOR TO IMPLEMENTATION.

16 24-906.

17 (A) THE COUNTY BOARD OF HEALTH SHALL INCLUDE IN ITS PROGRAM  
18 OPERATING PROCEDURES MEASURES TO COLLECT THE FOLLOWING DATA:

19 (1) THE NUMBER OF PARTICIPANTS SERVED BY THE PROGRAM;

20 (2) THE LENGTH OF TIME A PARTICIPANT IS SERVED BY THE PROGRAM;

21 (3) DEMOGRAPHIC PROFILES OF PARTICIPANTS SERVED BY THE  
22 PROGRAM THAT INCLUDE:

23 (I) AGE;

24 (II) SEX;

25 (III) RACE;

26 (IV) OCCUPATION;

27 (V) ZIP CODE OF RESIDENCE;

28 (VI) TYPES OF DRUGS USED;

29 (VII) LENGTH OF DRUG USE; AND

30 (VIII) FREQUENCY OF INJECTION;

1           (4)     THE NUMBER OF HYPODERMIC NEEDLES AND SYRINGES  
2 EXCHANGED;

3           (5)     THE NUMBER OF PARTICIPANTS ENTERING DRUG COUNSELING AND  
4 TREATMENT; AND

5           (6)     THE NUMBER OF REFERRALS MADE BY THE PROGRAM FOR DRUG  
6 COUNSELING AND TREATMENT.

7     (B)     WITH THE ADVICE AND APPROVAL OF THE OVERSIGHT COMMITTEE, THE  
8 COUNTY BOARD OF HEALTH SHALL DEVELOP AND IMPLEMENT A PLAN FOR  
9 PROGRAM EVALUATION THAT SHALL INCLUDE THE FOLLOWING ISSUES:

10           (1)     THE PREVALENCE OF HIV AMONG PROGRAM PARTICIPANTS;

11           (2)     CHANGES IN THE LEVEL OF DRUG USE AMONG PROGRAM  
12 PARTICIPANTS;

13           (3)     CHANGES IN THE LEVEL OF NEEDLE-SHARING AMONG PROGRAM  
14 PARTICIPANTS;

15           (4)     CHANGES IN THE USE OF CONDOMS AMONG PROGRAM  
16 PARTICIPANTS;

17           (5)     THE STATUS OF TREATMENT AND RECOVERY FOR PROGRAM  
18 PARTICIPANTS WHO ENTERED DRUG TREATMENT PROGRAMS;

19           (6)     THE IMPACT OF THE PROGRAM ON RISK BEHAVIORS FOR THE  
20 TRANSMISSION OF THE HIV INFECTION, THE HEPATITIS B VIRUS, AND OTHER  
21 LIFE-THREATENING BLOOD-BORNE DISEASES AMONG INJECTING DRUG USERS;

22           (7)     THE COST-EFFECTIVENESS OF THE PROGRAM VERSUS THE DIRECT  
23 AND INDIRECT COSTS OF THE HIV INFECTION IN TERMS OF MEDICAL TREATMENT  
24 AND OTHER SERVICES NORMALLY REQUIRED BY HIV INFECTED INDIVIDUALS;

25           (8)     THE STRENGTHS AND WEAKNESSES OF THE PROGRAM; AND

26           (9)     THE ADVISABILITY OF CONTINUING THE PROGRAM.

27     (C)     AS PART OF ITS PLAN FOR DATA COLLECTION AND PROGRAM EVALUATION  
28 DESCRIBED UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION, THE COUNTY BOARD  
29 OF HEALTH SHALL DEVELOP AND IMPLEMENT A METHODOLOGY:

30           (1)     FOR IDENTIFYING PROGRAM HYPODERMIC NEEDLES AND SYRINGES  
31 THROUGH ANY METHOD APPROVED BY THE OVERSIGHT COMMITTEE; AND

32           (2)     TO PERFORM HIV ANTIBODY TESTING ON THE RESIDUE LEFT IN A  
33 SAMPLE OF HYPODERMIC NEEDLES AND SYRINGES RETURNED TO THE PROGRAM.

1 24-907.

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

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

6 (B) SUBJECT TO THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION, ANY  
7 INFORMATION OBTAINED BY THE PROGRAM THAT WOULD IDENTIFY PROGRAM  
8 PARTICIPANTS, INCLUDING PROGRAM RECORDS, IS:

9 (1) CONFIDENTIAL;

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

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

12 (C) (1) UPON THE WRITTEN CONSENT OF A PROGRAM PARTICIPANT,  
13 INFORMATION OBTAINED BY THE PROGRAM THAT IDENTIFIES THE PROGRAM  
14 PARTICIPANT MAY BE RELEASED OR DISCLOSED TO A PERSON OR AGENCY  
15 PARTICIPATING IN THE PROGRAM.

16 (2) IN ADDITION TO THE PROVISIONS OF PARAGRAPH (1) OF THIS  
17 SUBSECTION, IF A PROGRAM PARTICIPANT RAISES THE ISSUE OF PARTICIPATION IN  
18 THE PROGRAM EITHER AS A SUBJECT MATTER OR LEGAL DEFENSE IN AN  
19 ADMINISTRATIVE, CIVIL, OR CRIMINAL PROCEEDING, THE PROGRAM PARTICIPANT  
20 WAIVES THE CONFIDENTIALITY AS TO IDENTITY PROVIDED UNDER SUBSECTION  
21 (B)(1) OF THIS SECTION.

22 24-908.

23 (A) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION, A  
24 PROGRAM STAFF MEMBER OR PROGRAM PARTICIPANT MAY NOT BE FOUND GUILTY  
25 OF VIOLATING ARTICLE 27, § 287, § 287A, OR § 288 OF THE CODE FOR POSSESSING OR  
26 DISTRIBUTING CONTROLLED PARAPHERNALIA OR DRUG PARAPHERNALIA  
27 WHENEVER THE POSSESSION OR DISTRIBUTION OF THE CONTROLLED  
28 PARAPHERNALIA OR DRUG PARAPHERNALIA IS A DIRECT RESULT OF THE  
29 EMPLOYEE'S OR PARTICIPANT'S ACTIVITIES IN CONNECTION WITH THE WORK OF  
30 THE PROGRAM AUTHORIZED UNDER THIS SUBTITLE.

31 (B) A PROGRAM STAFF MEMBER OR PROGRAM PARTICIPANT IS NOT IMMUNE  
32 FROM CRIMINAL PROSECUTION FOR:

33 (1) THE REDISTRIBUTION OF HYPODERMIC NEEDLES OR SYRINGES IN  
34 ANY FORM;

35 (2) ANY ACTIVITIES NOT AUTHORIZED OR APPROVED BY THE PROGRAM;

36 OR

1           (3)     THE POSSESSION OR DISTRIBUTION OF CONTROLLED  
2 PARAPHERNALIA OR DRUG PARAPHERNALIA OR ANY OTHER UNLAWFUL ACTIVITY  
3 OUTSIDE OF THE COUNTY LIMITS.

4 24-909.

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

14     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 1998.