

SENATE BILL 309

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1998 Regular Session  
8r1535  
CF 8r2099

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By: **Senators Pinsky, Trotter, Hollinger, Teitelbaum, Kelley, McFadden,  
Blount, Sfikas, Conway, Hoffman, and Currie**

Introduced and read first time: February 4, 1998  
Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable  
Senate action: Adopted with floor amendments  
Read second time: March 10, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Local HIV Prevention Initiative**

3 FOR the purpose of authorizing, with certain exceptions, counties to establish an  
4 AIDS prevention sterile needle and syringe exchange program; specifying the  
5 goals and objectives of a needle exchange program; specifying the duties and  
6 responsibilities of the director of the needle exchange program under this Act;  
7 providing for the appointment of a certain advisory committee; specifying  
8 membership, duties, and responsibilities of an advisory committee; providing  
9 certain immunities for certain persons; restricting the disclosure or release of  
10 certain program information; and generally relating to the authorization for the  
11 establishment of a local needle exchange program ~~in each 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~~ Local 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:

Article - Health - General

SUBTITLE 9. ~~STATEWIDE~~ LOCAL NEEDLE EXCHANGE PROGRAM.

3 24-901.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.

6 (B) "CHIEF EXECUTIVE OFFICER" MEANS THE CHIEF EXECUTIVE OFFICER OF  
7 A COUNTY OR, IF THE COUNTY DOES NOT ELECT A CHIEF EXECUTIVE OFFICER, THE  
8 PRESIDING OFFICER OF THE LOCAL GOVERNING BODY.

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

11 (D) "PARTICIPANT" MEANS AN INDIVIDUAL WHO HAS REGISTERED WITH THE  
12 PROGRAM.

13 (E) "PROGRAM" MEANS THE AIDS PREVENTION STERILE NEEDLE AND  
14 SYRINGE EXCHANGE PROGRAM.

15 (F) "RESIDUE" MEANS THE DRIED REMAINS OF A CONTROLLED DANGEROUS  
16 SUBSTANCE ATTACHED TO OR CONTAINED WITHIN A HYPODERMIC NEEDLE OR  
17 SYRINGE.

18 24-902.

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

22 (2) ~~BALTIMORE CITY IS~~ THE FOLLOWING JURISDICTIONS ARE EXEMPT  
23 FROM THE PROVISIONS OF THIS SUBTITLE:

24 (I) ALLEGANY COUNTY;

25 (II) ANNE ARUNDEL COUNTY;

26 (III) BALTIMORE CITY;

27 (IV) CALVERT COUNTY;

28 (V) CAROLINE COUNTY;

29 (VI) CARROLL COUNTY;

30 (VII) CECIL COUNTY;

31 (VIII) CHARLES COUNTY;

- 1            (IX) DORCHESTER COUNTY;  
2            (X) FREDERICK COUNTY;  
3            (XI) GARRETT COUNTY;  
4            (XII) HOWARD COUNTY;  
5            (XIII) KENT COUNTY;  
6            (XIV) QUEEN ANNE'S COUNTY;  
7            (XV) SOMERSET COUNTY;  
8            (XVI) ST. MARY'S COUNTY;  
9            (XVII) TALBOT COUNTY;  
10           (XVIII) WASHINGTON COUNTY;  
11           (XIX) WICOMICO COUNTY; AND  
12           (XX) WORCESTER COUNTY.

13        (B)     THE PROGRAM SHALL:

14            (1)     PROVIDE FOR THE ONE-FOR-ONE EXCHANGE BY PARTICIPANTS OF  
15 USED HYPODERMIC NEEDLES AND SYRINGES FOR STERILE HYPODERMIC NEEDLES  
16 AND SYRINGES; AND

17            (2)     OPERATE IN ACCORDANCE WITH THE PROCEDURES APPROVED,  
18 WITH THE APPROVAL OF THE ADVISORY COMMITTEE, BY THE COUNTY HEALTH  
19 OFFICER.

20 24-903.

21        THE PROGRAM SHALL:

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

29            (2)     BE OPERATED TO ALLOW PARTICIPANTS TO EXCHANGE USED  
30 HYPODERMIC NEEDLES AND SYRINGES AT ANY EXCHANGE LOCATION, IF MORE  
31 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 REFERRALS TO DRUG COUNSELING AND TREATMENT  
7 SERVICES;

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

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

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

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

20 24-904.

21 (A) THE CHIEF EXECUTIVE OFFICER OR THE CHIEF EXECUTIVE OFFICER'S  
22 DESIGNEE SHALL APPOINT AN ADVISORY COMMITTEE FOR THE PROGRAM.

23 (B) THE ADVISORY COMMITTEE SHALL CONSIST OF:

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

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

29 (3) ONE REPRESENTATIVE FROM THE DEPARTMENT OF HEALTH AND  
30 MENTAL HYGIENE NOMINATED BY THE SECRETARY OF HEALTH AND MENTAL  
31 HYGIENE;

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

33 (5) ONE DRUG ABUSE TREATMENT COUNSELOR; AND

34 (6) ONE RECOVERING INJECTING DRUG USER.

35 (C) IN ADDITION THE ADVISORY COMMITTEE MAY CONSIST OF:

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

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

4 (3) OTHER INDIVIDUALS WHOM THE CHIEF EXECUTIVE OFFICER OR  
5 THE CHIEF EXECUTIVE OFFICER'S DESIGNEE DETERMINES TO BE APPROPRIATE FOR  
6 APPOINTMENT TO THE ADVISORY COMMITTEE.

7 (D) THE ADVISORY COMMITTEE SHALL:

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

10 (I) PROGRAM OPERATING PROCEDURES FOR THE FURNISHING,  
11 IDENTIFYING, AND ONE-FOR-ONE EXCHANGE OF HYPODERMIC NEEDLES AND  
12 SYRINGES TO INJECTING DRUG USERS;

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

14 (III) A PROTOCOL FOR REFERRING PROGRAM PARTICIPANTS TO  
15 SUBSTANCE ABUSE TREATMENT AND REHABILITATION; AND

16 (IV) A PLAN FOR EVALUATING THE PROGRAM;

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

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

23 (II) THE COMMUNITY OUTREACH AND EDUCATION PLAN;

24 (III) THE PROTOCOL FOR REFERRING PROGRAM PARTICIPANTS TO  
25 SUBSTANCE ABUSE TREATMENT AND REHABILITATION; AND

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

27 (3) MAKE RECOMMENDATIONS TO THE PROGRAM DIRECTOR OR THE  
28 COUNTY HEALTH OFFICER REGARDING ANY ASPECT OF PROGRAM PROCEDURES,  
29 OPERATION, OR EVALUATION.

30 24-905.

31 (A) THE COUNTY HEALTH OFFICER SHALL APPOINT A DIRECTOR FOR THE  
32 PROGRAM.

33 (B) WITH THE ADVICE OF THE ADVISORY COMMITTEE, THE DIRECTOR SHALL  
34 DEVELOP:

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

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

5 (3) A PROTOCOL FOR REFERRING PROGRAM PARTICIPANTS TO  
6 SUBSTANCE ABUSE TREATMENT AND REHABILITATION.

7 (C) THE DIRECTOR SHALL SUBMIT THE OPERATING PROCEDURES, THE PLAN  
8 FOR A COMMUNITY OUTREACH AND EDUCATION PROGRAM, AND THE SUBSTANCE  
9 ABUSE TREATMENT REFERRAL PROTOCOL TO THE COUNTY HEALTH OFFICER FOR  
10 APPROVAL PRIOR TO IMPLEMENTATION.

11 24-906.

12 (A) THE COUNTY HEALTH OFFICER SHALL INCLUDE IN THE PROGRAM  
13 OPERATING PROCEDURES MEASURES TO COLLECT THE FOLLOWING DATA:

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

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

16 (3) DEMOGRAPHIC PROFILES OF PARTICIPANTS SERVED BY THE  
17 PROGRAM THAT INCLUDE:

18 (I) AGE;

19 (II) SEX;

20 (III) RACE;

21 (IV) OCCUPATION;

22 (V) ZIP CODE OF RESIDENCE;

23 (VI) TYPES OF DRUGS USED;

24 (VII) LENGTH OF DRUG USE; AND

25 (VIII) FREQUENCY OF INJECTION;

26 (4) THE NUMBER OF HYPODERMIC NEEDLES AND SYRINGES  
27 EXCHANGED; AND

28 (5) THE NUMBER OF PARTICIPANTS ENTERING DRUG COUNSELING AND  
29 TREATMENT.

30 (B) WITH THE ADVICE OF THE ADVISORY COMMITTEE, THE COUNTY HEALTH  
31 OFFICER SHALL DEVELOP AND IMPLEMENT A PLAN FOR PROGRAM EVALUATION AS

1 APPROPRIATE BASED ON THE PREVAILING KNOWLEDGE AT THE TIME. THE PLAN  
2 MAY INCLUDE:

3 (1) REPORTED CHANGES IN THE LEVEL OF DRUG USE AMONG PROGRAM  
4 PARTICIPANTS;

5 (2) REPORTED CHANGES IN THE LEVEL OF NEEDLE-SHARING AMONG  
6 PROGRAM PARTICIPANTS;

7 (3) REPORTED CHANGES IN THE USE OF CONDOMS AMONG PROGRAM  
8 PARTICIPANTS; AND

9 (4) THE ADVISABILITY OF CONTINUING THE PROGRAM.

10 24-907.

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

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

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

18 (1) CONFIDENTIAL;

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

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

21 (C) (1) UPON THE WRITTEN CONSENT OF A PROGRAM PARTICIPANT,  
22 INFORMATION OBTAINED BY THE PROGRAM THAT IDENTIFIES THE PROGRAM  
23 PARTICIPANT MAY BE RELEASED OR DISCLOSED TO A PERSON OR AGENCY  
24 PARTICIPATING IN THE PROGRAM.

25 (2) IN ADDITION TO THE PROVISIONS OF PARAGRAPH (1) OF THIS  
26 SUBSECTION, IF A PROGRAM PARTICIPANT RAISES THE ISSUE OF PARTICIPATION IN  
27 THE PROGRAM EITHER AS A SUBJECT MATTER OR LEGAL DEFENSE IN AN  
28 ADMINISTRATIVE, CIVIL, OR CRIMINAL PROCEEDING, THE PROGRAM PARTICIPANT  
29 WAIVES THE CONFIDENTIALITY AS TO IDENTITY PROVIDED UNDER SUBSECTION  
30 (B)(1) OF THIS SECTION.

31 24-908.

32 (A) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION, A  
33 PROGRAM STAFF MEMBER OR PROGRAM PARTICIPANT MAY NOT BE FOUND GUILTY  
34 OF VIOLATING ARTICLE 27, § 287, § 287A, OR § 288 OF THE CODE FOR POSSESSING OR  
35 DISTRIBUTING CONTROLLED PARAPHERNALIA OR DRUG PARAPHERNALIA  
36 WHENEVER THE POSSESSION OR DISTRIBUTION OF THE CONTROLLED

1 PARAPHERNALIA OR DRUG PARAPHERNALIA IS A DIRECT RESULT OF THE  
2 EMPLOYEE'S OR PARTICIPANT'S ACTIVITIES IN CONNECTION WITH THE WORK OF  
3 THE PROGRAM AUTHORIZED UNDER THIS SUBTITLE.

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

6 (1) THE REDISTRIBUTION OF HYPODERMIC NEEDLES OR SYRINGES IN  
7 ANY FORM;

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

10 (3) THE POSSESSION OR DISTRIBUTION OF CONTROLLED  
11 PARAPHERNALIA OR DRUG PARAPHERNALIA OR ANY OTHER UNLAWFUL ACTIVITY  
12 OUTSIDE OF THE COUNTY LIMITS.

13 24-909.

14 EXCEPT FOR VIOLATIONS OF ANY LAWS THAT COULD ARISE FROM RESIDUE  
15 ATTACHED TO OR CONTAINED WITHIN HYPODERMIC NEEDLES OR SYRINGES BEING  
16 RETURNED OR ALREADY RETURNED TO THE PROGRAM, NOTHING IN THIS SUBTITLE  
17 MAY BE CONSTRUED TO PROVIDE IMMUNITY TO A PROGRAM STAFF MEMBER OR  
18 PROGRAM PARTICIPANT FROM CRIMINAL PROSECUTION FOR A VIOLATION OF ANY  
19 LAW PROHIBITING OR REGULATING THE USE, POSSESSION, DISPENSING,  
20 DISTRIBUTION, OR PROMOTION OF CONTROLLED DANGEROUS SUBSTANCES,  
21 DANGEROUS DRUGS, DETRIMENTAL DRUGS, OR HARMFUL DRUGS OR ANY  
22 CONSPIRACY OR ATTEMPT TO COMMIT ANY OF THOSE OFFENSES.

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