

# HOUSE BILL 973

J1

5lr0753

---

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

1 AN ACT concerning

2 **Local AIDS Prevention Sterile Needle and Syringe Exchange Programs**

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

25 BY repealing and reenacting, with amendments,

26 Article – Health – General

27 Section 24-901 through 24-906, and 24-908 to be under the amended subtitle

28 “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.



1 Annotated Code of Maryland  
2 (2009 Replacement Volume and 2014 Supplement)

3 BY repealing and reenacting, without amendments,  
4 Article – Health – General  
5 Section 24–907 and 24–909  
6 Annotated Code of Maryland  
7 (2009 Replacement Volume and 2014 Supplement)

8 Preamble

9 WHEREAS, Overdose deaths in Maryland have increased dramatically over the past  
10 5 years, specifically from opioid use, and syringe exchange programs provide an opportunity  
11 to distribute naloxone and provide overdose prevention education directly to individuals at  
12 risk of overdose; and

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

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

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

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

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

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

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

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

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

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

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

5 **Article – Health – General**

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

8 24–901.

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

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

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

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

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

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

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

24 24–902.

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

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

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

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

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

9 24-903.

10 The Program shall:

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

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

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

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

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

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

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

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

31 [(9)] (8) Establish a method of identification and authorization for  
32 Program staff members who have access to hypodermic needles, syringes, or Program  
33 records.

1 24-904.

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

5 (b) The advisory committee shall consist of:

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

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

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

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

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

16 (6) One representative of an AIDS advocacy group;

17 (7) One drug abuse treatment counselor;

18 (8) One recovering injecting drug user; and

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

22 (c) The advisory committee shall:

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

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

27 (ii) A plan for community outreach and education;

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

1 (iv) A plan for evaluating the Program;

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

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

7 (ii) The community outreach and education plan;

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

10 (iv) The plan for evaluating the Program; and

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

14 24-905.

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

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

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

20 (2) A community outreach and education program; and

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

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

26 24-906.

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

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

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

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

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

23 24–907.

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

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

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

3 (1) Confidential;

4 (2) Not open to public inspection or disclosure; and

5 (3) Not discoverable in any criminal or civil proceeding.

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

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

15 24–908.

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

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

24 (1) [The redistribution of hypodermic needles or syringes in any form;

25 (2)] Any activities not authorized or approved by the Program; or

26 [(3)] (2) The possession or distribution of controlled paraphernalia or  
27 drug paraphernalia or any other unlawful activity outside of the [Prince George’s County  
28 limits] **PROGRAM’S JURISDICTION.**

29 24–909.

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



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

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