

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001

A Bill

HOUSE BILL 1302

4
5 By: Representative Lendall
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7

For An Act To Be Entitled

8
9 AN ACT TO CREATE A STATEWIDE NEEDLE EXCHANGE PROGRAM;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12
13 AN ACT TO CREATE A STATEWIDE NEEDLE
14 EXCHANGE PROGRAM.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. The General Assembly finds that:

20 (1) Injection drug users who share needles are at increased risk of
21 contracting HIV, hepatitis B and C, and other devastating blood-borne
22 communicable diseases that are often transmitted to sexual partners and unborn
23 children;

24 (2) Injection drug use is responsible for the greatest number of new
25 HIV and hepatitis B and C infections in the heterosexual population;

26 (3) Research has demonstrated that needle exchange programs that
27 include education and counseling can reduce the transmission of HIV and
28 hepatitis B and C, and other blood-borne diseases among drug users and the
29 preponderance of evidence indicates that such programs do not result in
30 increased levels of injection drug use in areas where such programs exist;

31 (4) Needle exchange programs can offer a bridge to drug treatment, HIV
32 prevention information, and medical support services for hard-to-reach
33 populations who might not otherwise receive such services; and

34 (5) Implementation of needle exchange programs is a matter of mixed
35 statewide and local concern, and that local governments and health agencies
36 are in the best position to oversee such programs in cooperation with the

1 Department of Health and the State Board of Health.

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3 SECTION 2. Definitions.

4 As used in this act:

5 (1) "Department" means the Department of Health;

6 (2) "Governing body of local government" means the quorum court of a
7 county and the city council or board of directors of a city or town;

8 (3) "Identification card" means a card issued by a needle exchange
9 program to identify persons who are legitimately participating in,
10 volunteering with, or employed by the needle exchange program;

11 (4) "Local government" means a county, city or incorporated town;

12 (5) "Local health department" means a county, city or town health
13 department;

14 (6) "Needle exchange program" means a program approved by the
15 department, authorized by a local government and operated by a not-for-profit
16 organization or a local health department that is targeted at injection drug
17 users; encourages injection drug users to seek treatment for substance abuse;
18 and provides referrals for:

19 (A) Substance abuse treatment and other preventive health case
20 services for participants in the program; and

21 (B) One-for-one exchange of used syringes for sterile syringes;
22 and

23 (7) "State board" means the State Board of Health.

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25 SECTION 3. (a) Any not-for-profit organization or local health
26 department may apply to provide a needle exchange program in a jurisdiction by
27 submitting to the department a needle exchange program implementation plan
28 that complies with the regulations adopted by the state board.

29 (b)(1) On receipt of a needle exchange program implementation plan, the
30 department shall review the plan.

31 (2) If the department determines that the program implementation
32 plan meets the regulations adopted by the state board, the department shall
33 approve the plan and return it to the submitting entity.

34 (3) The department shall either deny or approve and return the
35 program implementation plan within sixty (60) calendar days after the plan is
36 submitted.

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SECTION 4. (a)(1)(A) After a needle exchange program implementation plan is approved by the department, the not-for-profit organization or local health department proposing to provide the needle exchange program shall submit the plan to the governing body of the local government for the jurisdiction in which the program would operate.

(B) The governing body may impose restrictions on and requirements for operation of the needle exchange program in addition to those imposed by the state board, so long as those restrictions and requirements do not conflict with any regulations adopted by the state board.

(2)(A) Following any necessary revision of a needle exchange program implementation plan, the governing body of the local government may take final action to authorize operation of the needle exchange program within its jurisdiction by adopting a resolution to that effect.

(B) The governing body may repeal the authorization for the needle exchange program at any time.

(b)(1)(A) On receipt of a needle exchange program implementation plan, the governing body of the local government or its designee shall transmit a copy of the plan to the county board of health or other regulatory body designated by the governing body to govern health issues.

(B) However, if the not-for-profit organization or local health department submits the plan to the governing body of a municipality, the governing body need not transmit a copy of the plan to any regulatory body.

(2) The county board of health or other regulatory body shall submit recommendations to the governing body or its designee regarding authorization or denial of the program implementation plan.

(c) Prior to taking final action to authorize or deny a needle exchange program implementation plan, the governing body of the local government shall hold a public hearing, after notice, to provide an opportunity for public comment on the plan.

(d)(1) If the governing body of the local government does not either adopt a resolution authorizing the needle exchange program implementation plan or deny the plan within one hundred eighty (180) calendar days after the plan is submitted to the governing body, the plan shall be deemed denied, unless the governing body and the not-for-profit organization or local health

1 department that submitted the plan have mutually agreed to extend the period
2 for consideration.

3 (2) The not-for-profit organization or local health department
4 may not submit a revised plan to the governing body for at least six (6)
5 months after denial of the previous plan.

6 (e)(1) In developing a needle exchange program implementation plan, a
7 not-for-profit organization or local health department shall consult with the
8 local law enforcement agencies located within the jurisdiction to which the
9 not-for-profit organization or local health department submits an application.

10 (2) In addition, the not-for-profit organization or local health
11 department is encouraged to consult with other appropriate local entities and
12 participants, including the county board of health, the local health
13 department, the local government, and substance abuse and HIV health services
14 providers located within the jurisdiction of the local government to which the
15 not-for-profit organization or local health department submits an application.

16 (f) Any person participating in, volunteering with, or employed by a
17 needle exchange program who holds a valid identification card shall not be
18 liable criminally or civilly for distributing sterile syringes via the needle
19 exchange program.

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21 SECTION 5. (a)(1) Each needle exchange program implementation plan
22 submitted to the department and to the governing body of a local government
23 shall include the location of the program, the geographic area to be served,
24 and the method of program operation.

25 (2) In addition, the program implementation plan shall include the
26 information required under regulations adopted by the state board.

27 (b) Not later than October 1, 2000, the state board shall adopt
28 regulations for needle exchange program implementation plans. At a minimum,
29 the regulations shall address:

30 (1) The design and protocols of a needle exchange program;

31 (2) The proper safeguarding, handling, and disposal of hypodermic
32 syringes and needles;

33 (3) The provision to needle exchange program participants of
34 education and counseling, including referrals for hepatitis and HIV
35 transmission prevention and harm reduction, substance abuse treatment,
36 hepatitis and HIV testing and treatment, and other preventative health

1 services;

2 (4) Reasonable, standardized reporting criteria for needle
3 exchange programs;

4 (5) Procedures for maintaining the confidentiality of needle
5 exchange program participants;

6 (6) A standardized identification card format to be used for
7 needle exchange program participants and volunteer workers for and employees
8 of needle exchange programs; and

9 (7) Criteria for evaluating the services and goals of needle
10 exchange programs.

11 (c) On or before October 1, 2000, the state board shall adopt
12 regulations establishing standard reporting criteria and specifying the
13 information to be reported by each needle exchange program.

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15 SECTION 6. (a) Each needle exchange program shall issue an
16 identification card, in the form established by regulations adopted by the
17 state board, to each participant in the program and to each person working as
18 a volunteer with or as an employee of the program.

19 (b) Any needle exchange program participant, volunteer, or employee may
20 present his or her identification card to any law enforcement officer to
21 verify that he or she is a legitimate participant in, volunteer with or
22 employee of the program and shall not be arrested or prosecuted for
23 distributing sterile syringes via the needle exchange program.

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25 SECTION 7. (a)(1) No later than December 31, 2001, each needle
26 exchange program shall submit to the department a report regarding the
27 operations of the program.

28 (2) No later than January 31, 2002, the department shall compile
29 the needle exchange program reports and file a summary of the reports with the
30 Speaker of the House of Representatives and President Pro Tempore of the
31 Senate.

32 (b)(1) No later than October 1, 2001, and each October 1 thereafter,
33 each needle exchange program shall submit a report of the operations of the
34 program to the governing body of the local government in which the program is
35 authorized and to the county board of health or other regulatory body
36 designated by the governing body.

1 (2)(A) The governing body shall annually provide an opportunity
2 for public comment on the operations of the needle exchange program.

3 (B) The governing body is encouraged to solicit comment
4 from the county board of health, the local health department, the local
5 government, local law enforcement agencies, and substance abuse and HIV health
6 services providers in the jurisdiction of the local government in which the
7 needle exchange program is operating.

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