

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

# A Bill

HOUSE BILL 1044

4  
5 By: Representative Lendall  
6  
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. "  
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
17

18 SECTION 1. The General Assembly finds that:

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

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

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

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

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

\*SJH383\*

1  
2 SECTION 2. Definitions.

3 As used in this act:

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

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

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

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

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

13 (6) "Needle exchange program" means a program approved by the  
14 department, authorized by a local government and operated by a not-for-profit  
15 organization or a local health department that is targeted at injection drug  
16 users; encourages injection drug users to seek treatment for substance abuse;  
17 provides referrals for substance abuse treatment and other preventive health  
18 case services for participants in the program; and provides for one-for-one  
19 exchange of used syringes for sterile syringes; and

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

21  
22 SECTION 3. (a) Any not-for-profit organization or local health  
23 department may apply to provide a needle exchange program in a jurisdiction by  
24 submitting to the department a needle exchange program implementation plan  
25 that complies with the requirements specified in this act and the guidelines  
26 adopted by the state board pursuant to this act.

27 (b) On receipt of a needle exchange program implementation plan, the  
28 department shall review the plan. If the department determines that the  
29 program implementation plan meets the requirements specified in this act and  
30 the guidelines adopted by the state board pursuant to this act, the department  
31 shall approve the plan and return it to the submitting entity. The department  
32 shall either deny or approve and return the program implementation plan within  
33 sixty (60) calendar days after the plan is submitted.

34  
35 SECTION 4. (a)(1) After a needle exchange program implementation plan  
36 is approved by the department, the not-for-profit organization or local health

1 department proposing to provide the needle exchange program shall submit the  
 2 plan to the governing body of the local government for the jurisdiction in  
 3 which the program would operate. The governing body may impose restrictions on  
 4 and requirements for operation of the needle exchange program in addition to  
 5 those imposed by this act, so long as those restrictions and requirements do  
 6 not conflict with any requirements imposed by this act or the guidelines  
 7 adopted by the state board pursuant to this act.

8 (2) Following any necessary revision of a needle exchange program  
 9 implementation plan received pursuant to subdivision (a)(1), the governing  
 10 body of the local government may take final action to authorize operation of  
 11 the needle exchange program within its jurisdiction by adopting a resolution  
 12 to that effect. The governing body may repeal the authorization for the needle  
 13 exchange program at any time.

14 (b) On receipt of a needle exchange program implementation plan  
 15 pursuant to subdivision (a)(1), the governing body of the local government or  
 16 its designee shall transmit a copy of the plan to the county board of health  
 17 or other regulatory body designated by the governing body to govern health  
 18 issues; except that, if the not-for-profit organization or local health  
 19 department submits the plan to the governing body of a municipality, the  
 20 governing body need not transmit a copy of the plan to any regulatory body.  
 21 The county board of health or other regulatory body shall submit  
 22 recommendations to the governing body or its designee regarding authorization  
 23 or denial of the program implementation plan.

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

28 (d) If the governing body of the local government does not either adopt  
 29 a resolution authorizing the needle exchange program implementation plan or  
 30 deny the plan within one hundred eighty (180) calendar days after the plan is  
 31 submitted to the governing body, the plan shall be deemed denied, unless the  
 32 governing body and the not-for-profit organization or local health department  
 33 that submitted the plan have mutually agreed to extend the period for  
 34 consideration. The not-for-profit organization or local health department may  
 35 not submit a revised plan to the governing body for at least six (6) months  
 36 after denial of the previous plan.

1       (e) In developing a needle exchange program implementation plan, a  
2 not-for-profit organization or local health department shall consult with the  
3 local law enforcement agencies located within the jurisdiction to which the  
4 not-for-profit organization or local health department submits an application.  
5 In addition, the not-for-profit organization or local health department is  
6 encouraged to consult with other appropriate local entities and participants,  
7 including but not limited to the county board of health, the local health  
8 department, the local government, and substance abuse and HIV health services  
9 providers located within the jurisdiction of the local government to which the  
10 not-for-profit organization or local health department submits an application.

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

15  
16       SECTION 5. (a) Each needle exchange program implementation plan  
17 submitted to the department and to the governing body of a local government  
18 shall include, but not be limited to, the location of the program, the  
19 geographic area to be served, and the method of program operation. In  
20 addition, the program implementation plan shall include the information  
21 required under regulations adopted by the state board pursuant to subsection  
22 (b) of this section.

23       (b) Not later than October 1, 1999, the state board shall adopt  
24 regulations for needle exchange program implementation plans. At a minimum,  
25 the regulations shall address:

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

27               (2) The proper safeguarding, handling, and disposal of hypodermic  
28 syringes and needles;

29               (3) The provision to needle exchange program participants of  
30 education and counseling, including referrals for hepatitis and HIV  
31 transmission prevention and harm reduction, substance abuse treatment,  
32 hepatitis and HIV testing and treatment, and other preventative health  
33 services;

34               (4) Reasonable, standardized reporting criteria for needle  
35 exchange programs;

36               (5) Procedures for maintaining the confidentiality of needle

1 exchange program participants;

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

5 (7) Criteria for evaluating the services and goals of needle  
6 exchange programs.

7 (c) On or before October 1, 1999, the state board shall adopt  
8 regulations establishing standard reporting criteria and specifying the  
9 information to be reported by each needle exchange program.

10  
11 SECTION 6. Each needle exchange program authorized and operating  
12 pursuant to this act shall issue an identification card, in the form  
13 established by regulations adopted by the state board, to each participant in  
14 the program and to each person working as a volunteer with or as an employee  
15 of the program. Any needle exchange program participant, volunteer, or  
16 employee may present his or her identification card to any law enforcement  
17 officer to verify that he or she is a legitimate participant in, volunteer  
18 with or employee of the program and shall not be arrested or prosecuted for  
19 distributing sterile syringes via the needle exchange program.

20  
21 SECTION 7. (a) No later than December 31, 2000, each needle exchange  
22 program authorized and operating pursuant to this act shall submit to the  
23 department a report regarding the operations of the program. The department  
24 shall compile the reports and submit a summary of the needle exchange program  
25 reports to the General Assembly by January 31, 2001, by filing the same with  
26 the Speaker of the House and President Pro Tempore of the Senate.

27 (b) No later than October 1, 2000, and each October 1 thereafter, each  
28 needle exchange program shall submit a report of the operations of the program  
29 to the governing body of the local government in which the program is  
30 authorized and to the county board of health or other regulatory body  
31 designated by the governing body. The governing body shall annually provide an  
32 opportunity for public comment on the operations of the needle exchange  
33 program. The governing body is encouraged to solicit comment from the county  
34 board of health, the local health department, the local government, local law  
35 enforcement agencies, and substance abuse and HIV health services providers in  
36 the jurisdiction of the local government in which the needle exchange program

1 is operating.

2  
3 SECTION 8. All provisions of this Act of a general and permanent nature  
4 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
5 Revision Commission shall incorporate the same in the Code.

6  
7 SECTION 9. If any provision of this Act or the application thereof to  
8 any person or circumstance is held invalid, such invalidity shall not affect  
9 other provisions or applications of the Act which can be given effect without  
10 the invalid provision or application, and to this end the provisions of this  
11 Act are declared to be severable.

12  
13 SECTION 10. All laws and parts of laws in conflict with this Act are  
14 hereby repealed.