HB4556

LRB10223790CPF33826b

102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4556

Introduced 1/21/2022, by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

410 ILCS 710/5
410 ILCS 710/10 new
410 ILCS 710/15 new
410 ILCS 710/20 new

Amends the Overdose Prevention and Harm Reduction Act. Provides that a pharmacist or physician may dispense drug adulterant testing supplies, such as reagents, test strips, or quantification instruments, to any person. Provides that no employee or volunteer of or participant in a program established under the Act or any employee or customer of a pharmacy, hospital, clinic, or other health care facility or medical office dispensing drug adulterant testing supplies in accordance with the Act shall be charged with or prosecuted for possession of specified materials. Provides that a law enforcement officer who, acting on good faith, arrests or charges a person who is thereafter determined to be entitled to immunity from prosecution shall not be subject to civil liability for the arrest or filing of charges. Provides that any record of a person that is created or obtained for use by a needle and hypodermic syringe access program or by a pharmacy, hospital, clinic, or other health care facility or medical office in connection with the dispensing of drug adulterant testing supplies must be kept confidential. Contains other provisions. Effective immediately.

LRB102 23790 CPF 33826 b

A BILL FOR

AN ACT concerning health.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Overdose Prevention and Harm Reduction Act is amended by changing Section 5 and by adding Sections 10, 15, and 20 as follows:

(410 ILCS 710/5)

Sec. 5. Needle and hypodermic syringe access program.

(a) Any governmental or nongovernmental organization, including a local health department, community-based organization, or a person or entity, that promotes scientifically proven ways of mitigating health risks associated with drug use and other high-risk behaviors may establish and operate a needle and hypodermic syringe access program. The objective of the program shall be accomplishing all of the following:

(1) reducing the spread of HIV, AIDS, viral hepatitis, and other bloodborne diseases;

(2) reducing the potential for needle stick injuries from discarded contaminated equipment; and

(3) facilitating connections or linkages to evidence-based treatment.

(b) Programs established under this Act shall provide all

of the following:

(1) Disposal of used needles and hypodermic syringes.

(2) Needles, hypodermic syringes, and other safer drug consumption supplies, at no cost and in quantities sufficient to ensure that needles, hypodermic syringes, or other supplies are not shared or reused.

(3) Educational materials or training on:

(A) overdose prevention and intervention; and

(B) the prevention of HIV, AIDS, viral hepatitis, and other common bloodborne diseases resulting from shared drug consumption equipment and supplies.

(4) Access to opioid antagonists approved for the reversal of an opioid overdose, or referrals to programs that provide access to opioid antagonists approved for the reversal of an opioid overdose.

(5) Linkages to needed services, including mental health treatment, housing programs, substance use disorder treatment, and other relevant community services.

(6) Individual consultations from a trained employee tailored to individual needs.

(7) If feasible, a hygienic, separate space for individuals who need to administer a prescribed injectable medication that can also be used as a quiet space to gather composure in the event of an adverse on-site incident, such as a nonfatal overdose.

(8) If feasible, access to on-site drug adulterant

testing supplies such as reagents, test strips, or quantification instruments that provide critical real-time information on the composition of substances obtained for consumption.

(c) (Blank). ~~Notwithstanding any provision of the Illinois Controlled Substances Act, the Drug Paraphernalia Control Act, or any other law, no employee or volunteer of or participant in a program established under this Act shall be charged with or prosecuted for possession of any of the following:~~

~~(1) Needles, hypodermic syringes, or other drug consumption paraphernalia obtained from or returned, directly or indirectly, to a program established under this Act.~~

~~(2) Residual amounts of a controlled substance contained in used needles, used hypodermic syringes, or other used drug consumption paraphernalia obtained from or returned, directly or indirectly, to a program established under this Act.~~

~~(3) Drug adulterant testing supplies such as reagents, test strips, or quantification instruments obtained from or returned, directly or indirectly, to a program established under this Act.~~

~~(4) Any residual amounts of controlled substances used in the course of testing the controlled substance to determine the chemical composition and potential threat of the substances obtained for consumption that are obtained~~

~~from or returned, directly or indirectly, to a program established under this Act.~~

~~In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer who, acting on good faith, arrests or charges a person who is thereafter determined to be entitled to immunity from prosecution under this subsection (c) shall not be subject to civil liability for the arrest or filing of charges.~~

(d) Prior to the commencing of operations of a program established under this Act, the governmental or nongovernmental organization shall submit to the Illinois Department of Public Health all of the following information:

(1) the name of the organization, agency, group, person, or entity operating the program;

(2) the areas and populations to be served by the program; and

(3) the methods by which the program will meet the requirements of subsection (b) of this Section.

The Department of Public Health may adopt rules to implement this subsection.

(Source: P.A. 101-356, eff. 8-9-19.)

(410 ILCS 710/10 new)

Sec. 10. Dispensing of drug adulterant testing supplies. A pharmacist or physician may dispense drug adulterant testing supplies such as reagents, test strips, or quantification

instruments to any person. Drug adulterant testing supplies dispensed under this Section must be stored at a pharmacy, hospital, clinic, or other health care facility licensed under State or federal law or at the medical office of a physician and in a manner that limits access to the drug adulterant testing supplies to pharmacists and physicians employed at the pharmacy, hospital, clinic, or other health care facility, medical office, and any person designated by the pharmacist or physician. Drug adulterant testing supplies dispensed under this Section at a retail store containing a pharmacy may be dispensed only from the pharmacy department of the retail store.

(410 ILCS 710/15 new)

Sec. 15. Waiver of criminal penalties. Notwithstanding any provision of the Illinois Controlled Substances Act, the Drug Paraphernalia Control Act, or any other law, no employee or volunteer of or participant in a program established under this Act or any employee or customer of a pharmacy, hospital, clinic, or other health care facility or medical office dispensing drug adulterant testing supplies in accordance with Section 10 of this Act shall be charged with or prosecuted for possession of any of the following:

(1) Needles, hypodermic syringes, or other drug consumption paraphernalia obtained from or returned, directly or indirectly, to a program established under

this Act.

(2) Residual amounts of a controlled substance contained in used needles, used hypodermic syringes, or other used drug consumption paraphernalia obtained from or returned, directly or indirectly, to a program established under this Act.

(3) Drug adulterant testing supplies such as reagents, test strips, or quantification instruments obtained from or returned, directly or indirectly, to a program established under this Act or a pharmacy, hospital, clinic, or other health care facility or medical office dispensing such drug adulterant testing supplies in accordance with Section 10.

(4) Residual amounts of a controlled substance used in the course of testing the controlled substance to determine the chemical composition and potential threat of the substance obtained for consumption that is obtained from or returned, directly or indirectly, to a program established under this Act.

In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer who, acting on good faith, arrests or charges a person who is thereafter determined to be entitled to immunity from prosecution under this Section shall not be subject to civil liability for the arrest or filing of charges.

(410 ILCS 710/20 new)

Sec. 20. Confidentiality.

(a) Any record of a person that is created or obtained for use by a needle and hypodermic syringe access program or by a pharmacy, hospital, clinic, or other health care facility or medical office in connection with the dispensing of drug adulterant testing supplies in accordance with Section 10 must be kept confidential and:

(1) is not open for public inspection or disclosure;

(2) must not be shared with any other person or entity without the consent of the person to whom the record relates; and

(3) is not discoverable or admissible during any legal proceeding.

(b) A record described in subsection (a) must not be used:

(1) to initiate or substantiate any criminal charge against a person who participates in the needle and hypodermic syringe access program or who obtains drug adulterant testing supplies from a pharmacy, hospital, clinic, or other health care facility or medical office in accordance with Section 10; or

(2) as grounds for conducting any investigation of a person who participates in the needle and hypodermic syringe access program or who obtains drug adulterant testing supplies from a pharmacy, hospital, clinic, or other health care facility or medical office in accordance

with Section 10.

(c) The staff and volunteers of a needle and hypodermic syringe access program or a pharmacy, hospital, clinic, or other health care facility or medical office dispensing drug adulterant testing supplies in accordance with Section 10 shall not be compelled to provide evidence in any criminal proceeding conducted pursuant to the laws of this State concerning any information that was entrusted to them or became known to them through the program or through the dispensing.

(d) The use of any personal information of (i) any person who participates in a needle and hypodermic syringe access program or obtains drug adulterant testing supplies from a pharmacy, hospital, clinic, or other health care facility or medical office in accordance with Section 10, or (ii) the staff or volunteers of the needle and hypodermic syringe access program or the pharmacy, hospital, clinic, or other health care facility or medical office, in research and evaluation, must be done in such a manner as to guarantee the anonymity of the person.

(e) Aggregate data from a needle and hypodermic syringe access program, including, without limitation, demographic information, the number of clients contacted, and the types of referrals may be made available to the public.

Section 99. Effective date. This Act takes effect upon becoming law.