



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0078

Introduced 1/20/2023, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

20 ILCS 301/5-26 new
20 ILCS 301/15-10

Amends the Substance Use Disorder Act. Requires the Department of Human Services to (i) establish a new intervention license category entitled "OPS Harm Reduction Services", (ii) establish standards for entities to become licensed under the OPS Harm Reduction Services category, and (iii) create a licensing application process. Provides that, notwithstanding any other law, ordinance, or regulation, any entity licensed as an OPS Harm Reduction Services provider may operate an overdose prevention site as authorized by the Department. Requires the Department to make a determination as to whether to approve an entity's application for an OPS Harm Reduction Services license within 4 weeks after the date upon which the entity submitted its application to the Department. Requires the Department to help educate local communities and public and private entities about overdose prevention sites and the evidence regarding the benefits of overdose prevention sites. Requires entities approved to operate an overdose prevention site to, at a minimum, provide a hygienic space where participants may consume pre-obtained substances, maintain a supply of naloxone and oxygen on-site, employ staff trained to administer first aid to participants who are experiencing an overdose, provide secure hypodermic needle and syringe disposal services, encourage drug checking or the use of fentanyl test strips, and other services. Requires licensed entities to submit a report to the Department on the number of participants who have received or are receiving services at the overdose prevention site and other matters. Grants immunity from civil or criminal liability to specified persons. Preempts home rule powers.

LRB103 04631 KTG 49639 b

1 AN ACT concerning State government.

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

4 Section 5. The Substance Use Disorder Act is amended by
5 changing Section 15-10 and by adding Section 5-26 as follows:

6 (20 ILCS 301/5-26 new)

7 Sec. 5-26. OPS harm reduction services.

8 (a) Legislative findings. The General Assembly finds the
9 following:

10 (1) Illinois is experiencing a growing overdose
11 crisis. According to the Centers for Disease Control and
12 Prevention, over 4,000 Illinoisans died from overdoses
13 between January 2021 and January 2022, a 12.6% increase
14 from the previous year. Most of those preventable deaths
15 involved opioids.

16 (2) A significant reason for the increase in deaths is
17 a poisoned drug supply, with illicit fentanyl killing
18 people using street-bought substances. With the increasing
19 use of potent fentanyl in the illicit substance supply in
20 Illinois, more lives will continue to be lost.

21 (3) Nearly all witnessed opioid overdoses are
22 reversible with the provision of oxygen, naloxone, and
23 other emergency care. However, many people use drugs alone

1 or use them with people who do not have naloxone and are
2 not trained in overdose response.

3 (4) Overdose prevention sites can save lives. Overdose
4 prevention sites provide individuals with a safe, hygienic
5 space to consume pre-obtained drugs and access to other
6 harm reduction, treatment, recovery, and ancillary support
7 services.

8 (5) The goals of overdose prevention sites are:

9 (A) Saving lives by quickly providing emergency
10 care to persons experiencing an overdose.

11 (B) Reducing the spread of infectious diseases,
12 such as HIV and hepatitis.

13 (C) Reducing public injection of substances and
14 discarded syringes in surrounding areas.

15 (D) Linking those with substance use disorders to
16 behavioral and physical health supports.

17 (b) Definitions. As used in this Section:

18 "Entity" means (i) any community-based organization that
19 provides educational, health, harm reduction, housing, or
20 social services and (ii) any hospital, medical clinic or
21 office, health center, community-based mental health center,
22 or other similar entity that provides medical care.

23 "Harm reduction" refers to a philosophical framework and
24 set of strategies designed to reduce harm and promote dignity
25 and well-being among persons and communities who engage in
26 substance use.

1 "Overdose prevention sites" means hygienic locations where
2 individuals may safely consume pre-obtained substances.

3 "Participant" means an individual who seeks to utilize,
4 utilizes, or has utilized services provided at an overdose
5 prevention site established in accordance with this Section.

6 (c) Overdose prevention sites; licensure. The Department
7 shall establish a new intervention license category entitled
8 "OPS Harm Reduction Services" for entities seeking to operate
9 an overdose prevention site to provide harm reduction services
10 to persons who use controlled substances. Within 12 months
11 after the effective date of this amendatory Act of the 103rd
12 General Assembly, the Department shall establish standards for
13 entities to become licensed under the OPS Harm Reduction
14 Services category and shall create an application process for
15 entities to apply for and obtain an OPS Harm Reduction
16 Services license. These standards shall be informed by harm
17 reduction principles and developed with the input of persons
18 who use or formerly used controlled substances.

19 Notwithstanding any other law, ordinance, or regulation,
20 any entity licensed as an OPS Harm Reduction Services provider
21 may operate an overdose prevention site as authorized by the
22 Department.

23 (d) The Department shall make a determination as to
24 whether to approve an entity's application for an OPS Harm
25 Reduction Services license within 4 weeks after the date upon
26 which the entity submitted its application to the Department.

1 No OPS Harm Reduction Services license shall be granted to an
2 entity seeking to operate an overdose prevention site in a
3 municipality with a population of less than 2,500,000
4 inhabitants until such entity is first licensed to operate an
5 overdose prevention site in a municipality with a population
6 of 2,500,000 or more inhabitants. Each initial license shall
7 be valid for 2 years and, after the initial 2-year license
8 period, may be renewed for a specified period as determined by
9 the Department.

10 An entity may apply for an OPS Harm Reduction Services
11 license at any time, regardless of previous applications.

12 The Department shall help educate local communities and
13 public and private entities, such as public safety
14 organizations, social service groups, school districts, faith
15 communities, and businesses, about overdose prevention sites
16 and the evidence regarding the benefits of overdose prevention
17 sites.

18 (e) Overdose prevention site features. An entity approved
19 to operate an overdose prevention site shall, at a minimum:

20 (1) provide a hygienic space where participants may
21 consume pre-obtained substances;

22 (2) maintain a supply of naloxone and oxygen on-site,
23 together with the necessary equipment to administer
24 naloxone and oxygen;

25 (3) monitor participants for potential overdose;

26 (4) employ staff trained to administer first aid to

1 participants who are experiencing an overdose;

2 (5) provide sterile injection or other substance use
3 supplies, collect used hypodermic needles and syringes,
4 and provide secure hypodermic needle and syringe disposal
5 services in compliance with the Overdose Prevention and
6 Harm Reduction Act and any applicable rules adopted by the
7 Department of Public Health;

8 (6) provide safer smoking and safer snorting kits;

9 (7) provide naloxone;

10 (8) encourage drug checking or the use of fentanyl
11 test strips;

12 (9) provide education on safe consumption practices,
13 the proper disposal of hypodermic needles and syringes,
14 and overdose prevention;

15 (10) provide referrals to substance use disorder and
16 mental health treatment, medication-assisted treatment or
17 recovery, and other services which address social
18 determinants of health;

19 (11) offer a quiet and comfortable space for
20 participants to stay safely sheltered and supervised after
21 consuming substances; and

22 (12) train staff members and volunteers to deliver
23 services offered at the overdose prevention site, and
24 maintain an adequate staff of health care professionals or
25 other trained staff or volunteers.

26 (f) Reporting. An entity operating an overdose prevention

1 site in accordance with this Section shall, within the time
2 frame specified by the Department, submit a report to the
3 Department that shall include:

4 (1) the number of participants who have received or
5 are receiving services at the overdose prevention site;

6 (2) aggregate information regarding the
7 characteristics of those participants reported under
8 paragraph (1);

9 (3) the number of hypodermic needles, syringes, and
10 harm reduction supplies distributed for use on-site;

11 (4) the number of overdoses experienced and the number
12 of overdoses reversed on-site;

13 (5) the number of participants directly and formally
14 referred to other services and the type of services.

15 (g) Immunity provided. Notwithstanding the Illinois
16 Controlled Substances Act, the Drug Paraphernalia Control Act,
17 or any other provision of law to the contrary, the following
18 persons shall not be arrested, charged, or prosecuted for any
19 criminal offense, or be subject to any civil or administrative
20 penalty, including seizure or forfeiture of assets or real
21 property or disciplinary action by a professional licensing
22 board, or be denied any right or privilege solely for
23 participation or involvement at an overdose prevention site
24 approved by the Department under this Act:

25 (1) any individual who seeks to utilize, utilizes, or
26 has utilized services provided at an overdose prevention

1 site established in accordance with this Section;

2 (2) a staff member or administrator of an overdose
3 prevention site, including a healthcare professional,
4 manager, employee, or volunteer; and

5 (3) an individual who owns real property at which an
6 overdose prevention site is located or operates.

7 (h) Home rule preemption. A home rule unit may not
8 prohibit the establishment or operation of an overdose
9 prevention site as provided in this Section. This Section is a
10 denial and limitation of home rule powers and functions under
11 subsection (g) of Section 6 of Article VII of the Illinois
12 Constitution.

13 (20 ILCS 301/15-10)

14 Sec. 15-10. Licensure categories and services. No person,
15 entity, or program may provide the services or conduct the
16 activities described in this Section without first obtaining a
17 license therefor from the Department, unless otherwise
18 exempted under this Act. The Department shall, by rule,
19 provide requirements for each of the following types of
20 licenses and categories of service:

21 (a) Treatment: Categories of service authorized by a
22 treatment license are Early Intervention, Outpatient,
23 Intensive Outpatient/Partial Hospitalization, Subacute
24 Residential/Inpatient, and Withdrawal Management.
25 Medication assisted treatment that includes methadone used

1 for an opioid use disorder can be licensed as an adjunct to
2 any of the treatment levels of care specified in this
3 Section.

4 (b) Intervention: Categories of service authorized by
5 an intervention license are DUI Evaluation, DUI Risk
6 Education, Designated Program, OPS Harm Reduction
7 Services, and Recovery Homes for persons in any stage of
8 recovery from a substance use disorder.

9 The Department may, under procedures established by rule
10 and upon a showing of good cause for such, exempt off-site
11 services from having to obtain a separate license for services
12 conducted away from the provider's licensed location.

13 (Source: P.A. 100-759, eff. 1-1-19.)