

1 HOUSE BILL 355

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PUBLIC HEALTH; AMENDING THE HARM REDUCTION ACT TO
12 CREATE THE OVERDOSE PREVENTION PROGRAM; LIMITING CIVIL AND
13 CRIMINAL LIABILITY FOR PEOPLE ACTING PURSUANT TO THE HARM
14 REDUCTION ACT.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 24-2C-1 NMSA 1978 (being Laws 1997,
18 Chapter 256, Section 1) is amended to read:

19 "24-2C-1. SHORT TITLE.--~~[Sections 1 through 6 of this~~
20 ~~act]~~ Chapter 24, Article 2C NMSA 1978 may be cited as the "Harm
21 Reduction Act"."

22 SECTION 2. Section 24-2C-3 NMSA 1978 (being Laws 1997,
23 Chapter 256, Section 3, as amended) is amended to read:

24 "24-2C-3. DEFINITIONS.--As used in the Harm Reduction
25 Act:

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1 A. "department" means the department of health; and

2 B. "participant" means a person who receives
3 supplies or devices or services provided by the harm reduction
4 program or the overdose prevention program."

5 SECTION 3. Section 24-2C-4 NMSA 1978 (being Laws 1997,
6 Chapter 256, Section 4, as amended) is amended to read:

7 "24-2C-4. HARM REDUCTION PROGRAM CREATED--OVERDOSE
8 PREVENTION PROGRAM CREATED--DEPARTMENT RESPONSIBILITIES.--

9 A. The department shall:

10 (1) establish and administer a program that
11 shall be known as the "harm reduction program" to reduce
12 overdose mortality and other negative health outcomes
13 associated with drug use;

14 (2) by July 1, 2026, promulgate rules for the
15 establishment of a program that shall be known as the "overdose
16 prevention program". By January 1, 2027, the department shall
17 administer the overdose prevention program to reduce death,
18 disease and injury associated with drug use;

19 ~~(2)~~ (3) pursuant to rules established by the
20 department, qualify persons as harm reduction or overdose
21 prevention program participants, issue a document that
22 identifies the bearer of the document as a participant and
23 provide the bearer of the document with access to supplies,
24 devices or services provided by the program;

25 ~~(3)~~ (4) compile data to assist in planning

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1 and evaluating efforts to combat overdose mortality and other
2 negative health outcomes associated with drug use. The
3 department shall not collect the full name or address of
4 participants, except as required by law for testing, treatment
5 of infectious disease or other medical treatment; and

6 [~~(4)~~] (5) make an annual report, including
7 legislative recommendations, to the legislative health and
8 human services committee by October 1 each year.

9 B. The department shall appoint an advisory
10 committee to include representation from:

11 [~~(1)~~] ~~the office of the attorney general;~~
12 [~~(2)~~] ~~the New Mexico state police division of~~
13 ~~the department of public safety;~~

14 [~~(3)~~] (1) the infectious disease prevention and
15 control bureau of the department;

16 [~~(4)~~] (2) the director of the epidemiology and
17 response division of the department or the director's designee;

18 [~~(5)~~] (3) a medical officer of the public
19 health division of the department; [and

20 [~~(6)~~] ~~other persons or representatives as chosen~~
21 ~~by the secretary of health to ensure a thorough and unbiased~~
22 ~~evaluation of the program established under the Harm Reduction~~
23 ~~Act]~~

24 (4) the state department of justice;

25 (5) the department of public safety; and

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1 (6) substance use disorder treatment
2 providers.

3 C. The advisory committee shall:

4 (1) develop policies and procedures for
5 evaluation of the harm reduction [~~program~~] and overdose
6 prevention programs;

7 (2) develop criteria for data collection and
8 program evaluation; [~~and~~]

9 (3) make rulemaking recommendations to the
10 department; and

11 [~~(3)~~] (4) meet as necessary to monitor and
12 analyze data and produce a report on the [~~harm reduction~~
13 ~~program's~~] impact of the harm reduction program and the
14 overdose prevention program on overdose mortality and other
15 negative health outcomes associated with drug use.

16 D. The department may contract with private
17 providers to operate the harm reduction program and the
18 overdose prevention program. Any provider certified by the
19 department to provide services as part of the harm reduction
20 program may provide services as part of the overdose prevention
21 program after obtaining additional certifications and meeting
22 criteria required by the department.

23 E. The department shall promulgate rules as
24 necessary for the administration of the Harm Reduction Act,
25 including developing criteria for the types of supplies or

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1 devices provided pursuant to the harm reduction [~~program~~] and
2 overdose prevention programs and standards for distribution of
3 those supplies or devices through [~~that program~~] those
4 programs. The criteria and standards shall be developed to
5 provide supplies and devices in order to reduce:

6 (1) cases of negative health outcomes
7 associated with drug use, such as overdoses or the spread of
8 infectious disease; and

9 (2) harm by promoting reduced use of non-
10 sterile items and improving participant engagement in harm
11 reduction services and prevention education.

12 F. The rules promulgated by the department pursuant
13 to the Harm Reduction Act shall address:

14 (1) co-locating harm reduction and overdose
15 prevention services with other health care services; and

16 (2) providing mobile overdose prevention
17 services."

18 SECTION 4. Section 24-2C-5 NMSA 1978 (being Laws 1997,
19 Chapter 256, Section 5, as amended) is amended to read:

20 "24-2C-5. [~~PROGRAM~~] PROGRAMS.--

21 A. The harm reduction program and the overdose
22 prevention program shall provide participants with:

23 [~~A.~~] (1) sterile hypodermic syringes and
24 needles in exchange for used hypodermic syringes, needles or
25 other objects used to inject controlled substances or

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1 controlled substance analogs into the human body;

2 ~~[B.]~~ (2) other objects used to prepare or
3 consume controlled substances or controlled substance analogs;

4 ~~[C.]~~ (3) supplies or devices used for testing
5 controlled substances or controlled substance analogs for
6 potentially dangerous adulterants;

7 ~~[D.]~~ (4) supplies or devices approved by the
8 department for distribution in accordance with rules
9 established pursuant to Subsection E of Section 24-2C-4 NMSA
10 1978;

11 ~~[E.]~~ (5) education on the prevention of:

12 ~~[1]~~ (a) the transmission of the human
13 immunodeficiency virus and hepatitis B and C; and

14 ~~[2]~~ (b) drug overdose mortality and
15 other negative health outcomes; and

16 ~~[F.]~~ (6) referral to substance abuse treatment
17 services.

18 B. The overdose prevention program shall provide
19 participants with a safe and hygienic space to administer and
20 consume previously obtained controlled substances where
21 personnel trained in overdose reversal shall monitor for signs
22 of an overdose and intervene to prevent, reverse or treat an
23 overdose.

24 C. Controlled substances shall not be sold,
25 purchased, traded or otherwise provided to harm reduction or

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1 overdose prevention program participants, except as otherwise
2 allowed by law."

3 SECTION 5. A new section of the Harm Reduction Act is
4 enacted to read:

5 "[NEW MATERIAL] LIMITING CIVIL AND CRIMINAL LIABILITY.--

6 A. Any person or entity, including a property
7 owner, lessor, sublessor, director, manager, administrator,
8 operator, employee, volunteer or participant of the harm
9 reduction program or the overdose prevention program, that is
10 reasonably acting in good faith pursuant to the Harm Reduction
11 Act and in accordance with all rules promulgated pursuant to
12 that act shall not be subject to:

13 (1) arrest, citation, property seizure, charge
14 or prosecution pursuant to the Controlled Substances Act,
15 including for attempt, aiding and abetting or conspiracy to
16 commit a violation of the Controlled Substances Act;

17 (2) violation, modification or revocation of a
18 grant of probation, parole, pretrial release or any other form
19 of community supervision;

20 (3) disciplinary action by a professional
21 licensing board, unless the action or conduct is otherwise in
22 violation of the board's established ethical rules;

23 (4) civil or administrative penalty or
24 liability;

25 (5) denial of any right or privilege;

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1 (6) referral or transfer to, or detention or
2 investigation for the purpose of referral or transfer to, any
3 federal immigration enforcement agency, including the United
4 States citizenship and immigration services, the United States
5 immigration and customs enforcement or the United States
6 customs and border protection; or

7 (7) the use of evidence gained as a proximate
8 result of participation in the harm reduction program or
9 overdose prevention program against the person in any criminal,
10 civil or disciplinary proceedings.

11 B. Entering, exiting or using the services of a
12 facility that provides services as part of the harm reduction
13 program or overdose prevention program shall not serve as the
14 basis for, or a fact contributing to the existence of,
15 reasonable suspicion or probable cause to conduct a search or
16 seizure.

17 C. Operation of a facility that provides services
18 as part of the harm reduction program or overdose prevention
19 program in accordance with operating guidelines developed by
20 the department shall not be considered a public or private
21 nuisance and shall not create cause for a criminal or civil
22 penalty for nuisance."