

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 2863

By: Pae

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6 AS INTRODUCED

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8 An Act relating to the Uniform Controlled Dangerous
9 Substances Act; creating the Oklahoma Syringe and
10 Needle Exchange Act; authorizing entities to operate
11 program; providing program requirements; requiring
12 entities to report to the State Department of Health;
13 requiring the State Department of Health to report to
14 the Legislature; directing the State Department of
15 Health to promulgate rules; amending 63 O.S. 2011,
16 Section 2-101.1, which relates to drug paraphernalia;
17 providing exception in determination of what
18 constitutes drug paraphernalia; providing for
19 codification; and declaring an emergency.

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22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 2-1101 of Title 63, unless there
is created a duplication in numbering, reads as follows:

Sections 1 through 4 of this act shall be known and may be cited
as the "Oklahoma Syringe and Needle Exchange Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2-1102 of Title 63, unless there
is created a duplication in numbering, reads as follows:

1 A. If in compliance with the provisions of the Oklahoma Syringe
2 and Needle Exchange Act and with the rules promulgated by the State
3 Department of Health, an entity may:

- 4 1. Operate a syringe and needle exchange program in this state;
- 5 2. Procure supplies needed to operate a syringe and needle
6 exchange program in this state; and
- 7 3. Supply a syringe and needle exchange program in this state
8 with materials necessary to operate the program.

9 B. An entity operating a syringe and needle exchange program
10 shall:

- 11 1. Facilitate the exchange of used syringes or needles for new
12 syringes or needles in sealed, sterile packaging; and
- 13 2. Ensure that the recipient of a new syringe or needle is
14 given verbal and written instruction on:
 - 15 a. methods for preventing the transmission of bloodborne
16 diseases, including hepatitis C and human
17 immunodeficiency virus (HIV), and
 - 18 b. options for obtaining:
 - 19 (1) services for treatment of a substance abuse
20 disorder,
 - 21 (2) testing for bloodborne diseases, and
 - 22 (3) an opioid antagonist.

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1 C. An entity operating a syringe and needle exchange program
2 shall report annually to the State Department of Health on the
3 following information about the program:

4 1. The number of individuals who have exchanged syringes or
5 needles;

6 2. The number of used syringes or needles exchanged for new
7 syringes or needles; and

8 3. The number of new syringes or needles provided in exchange
9 for used syringes or needles.

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2-1103 of Title 63, unless there
12 is created a duplication in numbering, reads as follows:

13 No later than July 1, 2022, and every two (2) years thereafter,
14 the State Department of Health shall report to the Senate and House
15 of Representatives on the activities and outcomes of syringe and
16 needle exchange programs operating in the state. The report shall
17 include:

18 1. The number of individuals who have exchanged syringes or
19 needles;

20 2. The number of used syringes or needles exchanged for new
21 syringes or needles;

22 3. The number of new syringes or needles provided in exchange
23 for used syringes or needles;

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1 4. The estimated impact, if any, that the programs have had on
2 bloodborne infection rates; and

3 5. The estimated impact, if any, of the programs on the number
4 of individuals receiving treatment for a substance abuse disorder.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2-1104 of Title 63, unless there
7 is created a duplication in numbering, reads as follows:

8 The State Department of Health shall promulgate rules for the
9 implementation of the Oklahoma Syringe and Needle Exchange Act.

10 SECTION 5. AMENDATORY 63 O.S. 2011, Section 2-101.1, is
11 amended to read as follows:

12 Section 2-101.1 A. In determining whether an object is "drug
13 paraphernalia", a court or jury shall consider, in addition to all
14 other logically relevant factors, the following:

15 1. Statements by an owner or by anyone in control of the object
16 concerning its use;

17 2. The proximity of the object, in time and space, to a direct
18 violation of the Uniform Controlled Dangerous Substances Act;

19 3. The proximity of the object to controlled dangerous
20 substances;

21 4. The existence of any residue of controlled dangerous
22 substances on the object;

23 5. Direct or circumstantial evidence of the intent of an owner,
24 or of anyone in control of the object, to deliver it to any person

1 who intends to use the object to facilitate a violation of the
2 Uniform Controlled Dangerous Substances Act. The innocence of an
3 owner, or of anyone in control of the object, as to a direct
4 violation of this act shall not prevent a finding that the object is
5 intended for use, or fashioned specifically for use, as drug
6 paraphernalia;

7 6. Instructions, oral or written, provided with the object
8 which either state directly or imply that the object is to be used
9 for the consumption of controlled dangerous substances;

10 7. Descriptive materials accompanying the object which explain
11 or depict its use as an object for the consumption of controlled
12 dangerous substances;

13 8. The manner in which the object is displayed for sale;

14 9. Whether the owner, or anyone in control of the object, is a
15 legitimate supplier of like or related items to the community, such
16 as a licensed distributor or dealer of tobacco products;

17 10. Direct or circumstantial evidence of the ratio of sales of
18 the object or objects to the total sales of the business enterprise;

19 11. The existence and scope of legitimate uses for the object
20 in the community; and

21 12. Expert testimony concerning its use.

22 B. Nothing in this section shall apply to objects in the
23 possession of recipients and providers participating in the Oklahoma
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1 Syringe and Needle Exchange Act as authorized by Section 2 of this
2 act.

3 SECTION 6. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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