

# STATE OF NEW YORK

338--A

2023-2024 Regular Sessions

## IN ASSEMBLY

January 6, 2023

Introduced by M. of A. L. ROSENTHAL, PEOPLES-STOKES, PAULIN, CARROLL, SIMON, DICKENS, EPSTEIN, CRUZ, STECK, GONZALEZ-ROJAS, MAMDANI, FORREST, MEEKS, GALLAGHER, GLICK, KELLES, BURDICK, HEVESI, MITAYNES, LAVINE, CLARK, TAYLOR, BICHOTTE HERMELYN, WEPRIN, AUBRY -- Multi-Sponsored by -- M. of A. LUPARDO -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to enacting the safer consumption services act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public health law is amended by adding a new article 33-C to read as follows:

### ARTICLE 33-C

#### SAFER CONSUMPTION SERVICES ACT

#### Section 3399. Short title.

3399-a. Definitions.

3399-b. Program approval.

3399-c. Designation.

3399-d. Reporting.

3399-e. Immunity provided.

§ 3399. Short title. This act shall be known and may be cited as the "safer consumption services act".

§ 3399-a. Definitions. As used in this article:

1. "Program" means an overdose prevention center program established pursuant to this article.

2. "Entity" means any community-based organization that is an authorized syringe exchange program in accordance with the regulations of the department which provides educational, health, harm reduction, housing, or social services and any hospital, medical clinic or office, health

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD00024-05-3

1 center, nursing care facility, mental health facility, or other similar  
2 entity that provides medical care.

3 3. "Participant" means an individual who seeks to utilize, utilizes,  
4 or has used a program established pursuant to this article.

5 § 3399-b. Program approval. 1. Notwithstanding any other statute, law  
6 or rule to the contrary, the department may approve an entity to operate  
7 a program in one or more jurisdictions upon satisfaction of the require-  
8 ments set forth in subdivision two of this section. The department shall  
9 establish standards for program approval and training and may promulgate  
10 such rules and regulations as are necessary to implement this section.

11 (a) The department shall approve or deny an application under this  
12 section within forty-five days of the day of receipt of the application  
13 and provide a written explanation of such determination.

14 (b) An entity may make an application under this section at any time,  
15 regardless of previous applications.

16 2. The department may approve an entity to operate a program pursuant  
17 to this article, upon submission of an application that demonstrates the  
18 entity will, at a minimum:

19 (a) provide a hygienic space where participants may consume their  
20 preobtained drugs that is separate from the space in which the provider  
21 performs other services;

22 (b) provide adequate staffing by healthcare professionals or other  
23 trained staff;

24 (c) provide sterile injection and other consumption supplies, collect  
25 used hypodermic needles and syringes, and provide secure hypodermic  
26 needle and syringe disposal services;

27 (d) provide education on safer consumption practices, proper disposal  
28 of hypodermic needles and syringes, and overdose prevention, including  
29 written information in, at a minimum, the four most commonly spoken  
30 languages in the state as determined by the department;

31 (e) administer first aid, if needed, and monitor participants for  
32 potential overdose;

33 (f) provide referrals to substance use disorder treatment, medical,  
34 social welfare, and employment and training services;

35 (g) educate participants on the risks of contracting HIV and viral  
36 hepatitis and provide sexual health resources and supplies, including,  
37 but not limited to, male and female condoms;

38 (h) provide access to naloxone or referrals to obtain naloxone for  
39 participants;

40 (i) provide reasonable and adequate security of the program site and  
41 equipment;

42 (j) ensure confidentiality of program participants by using an anony-  
43 mous unique identifier;

44 (k) train staff members to deliver services offered by the program or  
45 attend trainings provided by the department; and

46 (l) establish operating procedures for the program as well as eligi-  
47 bility criteria for program participants.

48 § 3399-c. Designation. A department approved program shall also be  
49 designated as an authorized syringe exchange program in accordance with  
50 the regulations of the department as set forth in 10 NYCRR 80.135 and as  
51 a registered provider of an opioid overdose prevention program in  
52 accordance with the regulations of the department as set forth in 10  
53 NYCRR 80.138.

54 § 3399-d. Reporting. An entity operating an overdose prevention center  
55 program under this article shall provide an annual report to the depart-  
56 ment at a date set by the department that shall include:

- 1 1. the number of program participants;
- 2 2. aggregate information regarding the characteristics of program
- 3 participants;
- 4 3. the number of hypodermic needles and syringes distributed for use
- 5 on-site;
- 6 4. the number of overdoses experienced, the number of overdoses inter-
- 7 vened on-site, and the outcomes; and
- 8 5. the number of individuals directly and formally referred to other
- 9 services and the type of service.

10 § 3399-e. Immunity provided. Notwithstanding any other statute, law or  
11 rule to the contrary, the following persons shall not be arrested,  
12 charged, or prosecuted for any criminal offense or be subject to any  
13 civil or administrative penalty, including seizure or forfeiture of  
14 assets or real property or disciplinary action by a professional licens-  
15 ing board, or be denied any right or privilege, solely for participation  
16 or involvement in an overdose prevention center program approved by the  
17 department so long as such participation or involvement was in good  
18 faith and in accordance with established protocols pursuant to this  
19 article:

- 20 1. a participant;
- 21 2. a staff member or administrator of a program, including a health-
- 22 care professional, manager, employee, board member, director, or volun-
- 23 teer; or
- 24 3. a property owner who owns property at which a program is located
- 25 and operates.

26 § 2. This act shall take effect immediately.