# STATE OF NEW YORK

399--B

2023-2024 Regular Sessions

# IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sens. RIVERA, BAILEY, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, FERNANDEZ, GIANARIS, GONZALEZ, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, KRUEGER, LIU, MAY, MYRIE, PARKER, RAMOS, SALAZAR, SANDERS, SEPULVEDA, SERRANO, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- 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 pilot program 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 PILOT PROGRAM ACT**

**Section 3399. Short title.**
**3399-a. Definitions.**
**3399-b. Pilot program approval.**
**3399-c. Community advisory board and community outreach.**
**3399-d. Local community input.**
**3399-e. Reporting.**
**3399-f. Immunity provided.**

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

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

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

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

LBD00024-06-4

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

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

§ 3399-b. Pilot program approval. 1. Notwithstanding any other statute, law or rule to the contrary, the department is hereby authorized to establish a five-year safer consumption services pilot program for the operation of ten overdose prevention centers throughout the state. Such program shall be focused on reducing the risk of an overdose and other harmful effects associated with substance use. Current overdose prevention centers in the state shall automatically participate in the pilot program and count towards the total number of centers under the program. The department may approve an entity to operate a pilot program in one or more jurisdictions upon satisfaction of the requirements set forth in subdivision two of this section. The department shall establish standards for program approval and training and may promulgate such rules and regulations as are necessary to implement this section.

(a) The department shall approve or deny an application under this section within forty-five days and provide a written explanation of such determination after consultation with the municipality or in the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter where the entity is located. Such determination shall be made no later than forty-five days after receipt of a recommendation from the municipality or community board as required under section thirty-three hundred ninety-nine-d of this article and should consider whether such recommendation is in the public interest.

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

(c) The department shall notify the state and local elected representative of the program applicant.

(d) The department must notify the municipality or in the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter where the entity is located of the program applicant and request a recommendation as required under section thirty-three hundred ninety-nine-d of this article.

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

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

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

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

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

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

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

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

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

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

(j) ensure confidentiality of program participants by using an anonymous unique identifier;

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

(l) establish operating procedures for the program as well as eligibility criteria for program participants;

(m) be co-located with a current department-authorized syringe exchange program pursuant to section thirty-three hundred eighty-one of this chapter;

(n) be a registered provider of an opioid overdose prevention program in accordance with regulations as established under section thirty-three hundred nine of this chapter;

(o) satisfy the requirements under section thirty-three hundred ninety-nine-c of this article; and

(p) any other parameters as determined by the department.

3. The department may expand the pilot program if, at the discretion of the commissioner, the pilot program is achieving its intended purpose.

§ 3399-c. Community advisory board and community outreach. 1. An entity shall establish and maintain a community advisory board that shall focus on addressing local community concerns. The department shall develop policies and procedures for community engagement and feedback. Such policies and procedures shall include requirements for serving on the community advisory board including, but not limited to, time commitment, residency requirements, and age.

2. The community advisory board shall have at least five members. The members of the community advisory board shall be selected by the entity and shall be representative of the community and geographic areas the entity serves. A member may include an individual with lived experience or participant of the program. The appointed community liaison as set forth in subdivision three of this section shall be one of the members of the community advisory board.

3. The entity applying for a pilot program must conduct community outreach and shall:

(a) inform the local governments, local health departments, and local law enforcement agencies of the proposed services;

(b) appoint a designated staff person or persons to serve as a community liaison to be the point of contact between the pilot program and elected officials, law enforcement, and the department. The community liaison shall make a good faith effort to address community concerns in collaboration with the department and local government;

(c) hold meetings and public forums for the community to learn about the pilot program operations, address any concerns, and work with local community stakeholders such as community based organizations providing

social services, health and mental health services, including schools and religious institutions to support community health events; and

(d) provide information and resources about harm reduction, overdose prevention center services, and syringe litter cleanup and other services.

§ 3399-d. Local community input. A municipality or in the case of the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter where the entity is located must provide a recommendation to the department no later than sixty days after notification from the department.

§ 3399-e. Reporting. 1. An entity operating an overdose prevention center pilot program under this article shall provide an annual report to the department at a date set by the department. Such report shall be posted on the department's website and shall include:

(a) the number of program participants;

(b) aggregate information regarding the characteristics of program participants;

(c) the number of hypodermic needles and syringes distributed for use on-site;

(d) the number of overdoses experienced, the number of overdoses intervened on-site, and the outcomes; and

(e) the number of individuals directly and formally referred to other services and the type of service.

2. Within six months of the conclusion of the initial five-year pilot program, the department shall issue a report to the governor, the temporary president of the senate, and the speaker of the assembly. Such report shall contain, at a minimum:

(a) aggregate information regarding the centers under the pilot program;

(b) the feasibility of continuing the pilot program;

(c) the feasibility of increasing the number of programs under the pilot program;

(d) whether the pilot program is working as intended; and

(e) any other information relevant to the pilot program.

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

1. a participant;

2. a staff member or administrator of a program, including a healthcare professional, manager, employee, board member, director, or volunteer; or

3. a property owner who owns property at which a program is located and operates.

§ 2. This act shall take effect immediately.