

# 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:

1 Section 1. The public health law is amended by adding a new article  
2 33-C to read as follows:

### ARTICLE 33-C

#### SAFER CONSUMPTION SERVICES PILOT PROGRAM ACT

3 Section 3399. Short title.

4 3399-a. Definitions.

5 3399-b. Pilot program approval.

6 3399-c. Community advisory board and community outreach.

7 3399-d. Local community input.

8 3399-e. Reporting.

9 3399-f. Immunity provided.

10 § 3399. Short title. This act shall be known and may be cited as the  
11 "safer consumption services pilot program act".

12 § 3399-a. Definitions. As used in this article:

13 1. "Program" means an overdose prevention center pilot program estab-  
14 lished pursuant to this article.  
15  
16

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

LBD00024-06-4

1 2. "Entity" means any community-based organization that is an author-  
2 ized syringe exchange program in accordance with the regulations of the  
3 department which provides educational, health, harm reduction, housing,  
4 or social services and any hospital, medical clinic or office, health  
5 center, nursing care facility, mental health facility, or other similar  
6 entity that provides medical care.

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

9 § 3399-b. Pilot program approval. 1. Notwithstanding any other stat-  
10 ute, law or rule to the contrary, the department is hereby authorized to  
11 establish a five-year safer consumption services pilot program for the  
12 operation of ten overdose prevention centers throughout the state. Such  
13 program shall be focused on reducing the risk of an overdose and other  
14 harmful effects associated with substance use. Current overdose  
15 prevention centers in the state shall automatically participate in the  
16 pilot program and count towards the total number of centers under the  
17 program. The department may approve an entity to operate a pilot program  
18 in one or more jurisdictions upon satisfaction of the requirements set  
19 forth in subdivision two of this section. The department shall establish  
20 standards for program approval and training and may promulgate such  
21 rules and regulations as are necessary to implement this section.

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

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

34 (c) The department shall notify the state and local elected represen-  
35 tative of the program applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (l) establish operating procedures for the program as well as eligi-  
17 bility criteria for program participants;

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

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

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

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

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

30 § 3399-c. Community advisory board and community outreach. 1. An enti-  
31 ty shall establish and maintain a community advisory board that shall  
32 focus on addressing local community concerns. The department shall  
33 develop policies and procedures for community engagement and feedback.  
34 Such policies and procedures shall include requirements for serving on  
35 the community advisory board including, but not limited to, time commit-  
36 ment, residency requirements, and age.

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

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

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

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

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

1 social services, health and mental health services, including schools  
2 and religious institutions to support community health events; and  
3 (d) provide information and resources about harm reduction, overdose  
4 prevention center services, and syringe litter cleanup and other  
5 services.

6 § 3399-d. Local community input. A municipality or in the case of the  
7 city of New York, the community board established pursuant to section  
8 twenty-eight hundred of the New York city charter where the entity is  
9 located must provide a recommendation to the department no later than  
10 sixty days after notification from the department.

11 § 3399-e. Reporting. 1. An entity operating an overdose prevention  
12 center pilot program under this article shall provide an annual report  
13 to the department at a date set by the department. Such report shall be  
14 posted on the department's website and shall include:

15 (a) the number of program participants;

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

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

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

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

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

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

30 (b) the feasibility of continuing the pilot program;

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

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

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

35 § 3399-f. Immunity provided. Notwithstanding any other statute, law or  
36 rule to the contrary, the following persons shall not be arrested,  
37 charged, or prosecuted for any criminal offense or be subject to any  
38 civil or administrative penalty, including seizure or forfeiture of  
39 assets or real property or disciplinary action by a professional licens-  
40 ing board, or be denied any right or privilege, solely for participation  
41 or involvement in an overdose prevention center pilot program approved  
42 by the department so long as such participation or involvement was in  
43 good faith and in accordance with established protocols pursuant to this  
44 article:

45 1. a participant;

46 2. a staff member or administrator of a program, including a health-  
47 care professional, manager, employee, board member, director, or volun-  
48 teer; or

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

51 § 2. This act shall take effect immediately.