

ASSEMBLY BILL NO. 115—ASSEMBLYMAN ORENTLICHER

PREFILED FEBRUARY 3, 2023

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to substance use disorders. (BDR 40-726)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to substance use disorders; authorizing the establishment of a program for the prevention of overdoses and disease under certain circumstances; requiring the operator of such a program to report certain information to the health authority, the board of county commissioners and the State Board of Health; providing for the confidentiality of certain information concerning such a program; exempting operators, employees, volunteers and participants of such a program from certain penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a governmental entity, a nonprofit corporation, a public health program, a medical facility and certain other entities to establish a sterile hypodermic device program. (NRS 439.987) Such a program is authorized to provide: (1) sterile hypodermic devices and other related material for safe injection drug use; and (2) information concerning certain services for persons experiencing a substance use disorder. (NRS 439.991) Existing law additionally authorizes certain providers of health care to dispense opioid antagonists with or without a prescription. (NRS 453C.110, 453C.120) Existing law also exempts a person who, in good faith, seeks medical assistance for a person who is experiencing a drug or alcohol overdose or other medical emergency or who seeks such assistance for himself or herself, or who is the subject of a good faith request for such assistance, from certain criminal liability. (NRS 453C.100)

Sections 2-10 of this bill authorize the establishment of programs for the prevention of overdoses and disease, which provide a hygienic space where persons who are at least 18 years of age may consume drugs that they have obtained before arriving in the space. **Sections 2-5** of this bill define relevant terms. **Section 6** of this bill authorizes the board of county commissioners in a county whose



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population is 100,000 or more (currently Clark and Washoe Counties) to authorize the establishment of a program for the prevention of overdoses and disease that operates at one fixed or mobile site upon determining that the program is likely to achieve certain purposes relating to the reduction of harm caused by the consumption of drugs. If such a program operates continuously in such a county for 2 years and achieves those goals, **section 6** authorizes the State Board of Health to allow the board of county commissioners of a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) to authorize the establishment of such a program in the county. **Section 6** prohibits a board of county commissioners from authorizing such a program to operate at more than one fixed or mobile site and from establishing additional programs until one program has operated successfully and continuously in the county for 4 years. **Section 6** requires a board of county commissioners to hold an open, public hearing before approving the establishment of a program for the prevention of overdoses and disease or authorizing such a program to operate at an additional fixed or mobile site.

Section 7 of this bill prescribes the required elements of a program for the prevention of overdoses and disease, which, in addition to a hygienic site for the consumption of drugs, must include: (1) staffing and monitoring by trained personnel; (2) the distribution and administration of opioid antagonists; (3) the distribution and disposal of hypodermic devices; (4) the administration of first aid; and (5) upon request, consultation concerning treatment for a substance use disorder and referral for such treatment. **Section 7** also authorizes a program for the prevention of overdoses and disease to provide education in certain subjects relating to substance use disorders. **Section 8** of this bill requires the operator of a program for the prevention of overdoses and disease to report certain information concerning the program to the health authority, the board of county commissioners and the State Board of Health annually. **Sections 9 and 11** of this bill provide for the confidentiality of certain information relating to programs for the prevention of overdoses and disease. **Section 10** of this bill exempts: (1) operators, staff and volunteers of a program for the prevention of overdoses and disease from certain civil or criminal liability or other penalties; and (2) persons who possess and consume drugs at a hygienic site operated by such a program from criminal liability or civil forfeiture.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings prescribed to them in those sections.*

Sec. 3. *“Opioid antagonist” has the meaning ascribed to it in NRS 453C.040.*

Sec. 4. *“Participant” means a person who consumes drugs in a hygienic space operated by a program for the prevention of*



overdoses and disease pursuant to paragraph (a) of subsection 1 of section 7 of this act.

Sec. 5. "Program for the prevention of overdoses and disease" means a program established pursuant to section 6 of this act to allow for the supervised consumption of drugs at a hygienic site.

Sec. 6. 1. The board of county commissioners of a county whose population is 100,000 or more may approve the establishment of a program for the prevention of overdoses and disease that meets the requirements of section 7 of this act for the purposes of:

(a) Reducing fatal drug overdoses and the spread of viral hepatitis, human immunodeficiency virus and other blood-borne diseases;

(b) Reducing injuries from needle sticks to law enforcement officers, firefighters and providers of emergency medical services;

(c) Increasing the proper disposal of used hypodermic devices;

(d) Reducing the occurrence of wounds to skin and soft tissue and infections related to the injection of drugs; and

(e) Reducing visits to the emergency room of a hospital for conditions related to substance use disorder.

2. If a program for the prevention of overdoses and disease has operated continuously in a county whose population is 100,000 or more for at least 2 years and the State Board of Health determines based on the data included in the report submitted pursuant to section 8 of this act that the program is achieving the objectives described in subsection 1, the State Board may allow the board of county commissioners of a county whose population is less than 100,000 to apply to the State Board for authorization to approve the establishment of a program for the prevention of overdoses and disease in the county. If the State Board determines that the establishment of such a program in the county will satisfy the purposes prescribed by subsection 1 and meets the requirements of section 7 of this act, the State Board may authorize the board of county commissioners to approve the establishment of a program for the prevention of overdoses and disease in the county.

3. A board of county commissioners shall not approve the establishment of a program for the prevention of overdoses and disease pursuant to subsection 1 or 2 that operates more than one fixed or mobile site in the county or approve the establishment of more than one program for the prevention of overdoses and disease in the county until such a program has operated continuously for 4 years in the county. If the board of county commissioners determines at that time, based on the data included



1 in the report submitted pursuant to section 8 of this act, that the
2 existing program is achieving the objectives described in
3 subsection 1, the board may approve:

4 (a) The existing program to establish additional fixed or
5 mobile sites; or

6 (b) The establishment of additional programs.

7 4. Before authorizing the establishment of a program for the
8 prevention of overdoses and disease or authorizing such a
9 program to operate at an additional fixed or mobile site, a board of
10 county commissioners must solicit comment from law enforcement
11 officers, employees of the health authority and the public at a
12 meeting concerning the program that complies with the
13 requirements of chapter 241 of NRS.

14 **Sec. 7. 1.** A program for the prevention of overdoses and
15 disease must be operated by the health authority, an institution of
16 higher education, a nonprofit organization or any combination of
17 those entities. Such a program must provide:

18 (a) A hygienic space where participants may consume drugs
19 that those persons have obtained before arriving at the hygienic
20 space;

21 (b) Staffing by providers of health care, as defined in NRS
22 629.031, or other trained personnel that is adequate to ensure that
23 drugs are consumed in a manner that minimizes harm;

24 (c) The distribution and, when necessary, administration of
25 opioid antagonists;

26 (d) The disposal of used hypodermic devices;

27 (e) The distribution of sterile hypodermic devices and other
28 supplies for injections at no cost and in quantities sufficient to
29 ensure that such devices and supplies are not shared or reused;

30 (f) The administration of first aid when necessary;

31 (g) The monitoring of participants for potential overdoses; and

32 (h) Upon the request of a participant:

33 (1) Consultation with an employee or volunteer of the
34 program concerning options for treatment of a mental health
35 condition or substance use disorder; and

36 (2) Referral for treatment of a mental health condition or
37 substance use disorder.

38 2. A program for the prevention of overdoses and disease may
39 provide education on topics related to substance use disorders,
40 including, without limitation:

41 (a) Preventing overdoses and the spread of viral hepatitis,
42 human immunodeficiency virus and other blood-borne diseases;

43 (b) Peer recovery support services, as defined in NRS 433.626;

44 (c) Preventing wounds to skin and soft tissue and infections
45 related to the injection of drugs; and



(d) Treatment for mental health conditions and substance use disorders.

3. The State Board of Health or the health authority may adopt regulations prescribing procedures for the operation of a program for the prevention of overdoses and disease, including, without limitation, eligibility requirements for participants. If the Board or the health authority does not adopt such regulations, the program for the prevention of overdoses and disease must adopt such procedures.

4. No person shall be subject to any discrimination in the operation of a program for the prevention of overdoses and disease on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, political affiliation, disability, national origin, residence, frequency of injection or any drug used.

Sec. 8. On or before January 31 of each year, the operator of a program for the prevention of overdoses and disease shall submit to the health authority, the board of county commissioners and the State Board of Health a report that includes, for the previous calendar year:

1. The number of participants in the program;

2. Aggregate information concerning the demographics and other characteristics of the participants;

3. The total number of overdoses experienced at the hygienic space operated pursuant to paragraph (a) of subsection 1 of section 7 of this act and the number of those overdoses that were reversed through the use of opioid antagonists; and

4. The number of participants who were referred for other services and the types of services for which those participants were referred.

Sec. 9. 1. Any record of a person which is created or obtained for use by a program for the prevention of overdoses and disease must be kept confidential and:

(a) Is not open for public inspection or disclosure;

(b) Must not be shared with any other person or entity without the consent of the person to whom the record relates; and

(c) Must not be discoverable or admissible during any legal proceeding.

2. A record described in subsection 1 must not be used:

(a) To initiate or substantiate any criminal charge against a person who participates in the program for the prevention of overdoses and disease; or

(b) As grounds for conducting any investigation of a person who participates in the program for the prevention of overdoses and disease.



3. The staff and volunteers of a program for the prevention of overdoses and disease may not be compelled to provide evidence in any criminal proceeding conducted pursuant to the laws of this State concerning any information that was entrusted to them or became known to them through the program.

4. The use of any personal information of any participant in a program for the prevention of overdoses and disease or of the staff or volunteers of a program for the prevention of overdoses and disease for research or evaluation must be done in such a manner as to guarantee the anonymity of the person.

5. Aggregate data from a program for the prevention of overdoses and disease, including, without limitation, demographic information, the number of participants referred for other services and the types of referrals made, may be made available to the public.

Sec. 10. 1. Notwithstanding any other provision of law, a person is not subject to civil liability and may not be arrested, charged, prosecuted or convicted, or have his or her property subjected to forfeiture, be subject to professional discipline, be terminated or suspended from employment, have staff privileges at a medical facility revoked, be found to be in violation of a contract or be otherwise penalized for:

(a) Establishing, operating, being employed by or volunteering for a program for the prevention of overdoses and disease in a manner that complies with the requirements of sections 2 to 10, inclusive, of this act and any regulations adopted pursuant thereto; or

(b) Any act performed in good faith in the course of such establishment, operation, employment or volunteering that complies with the requirements of sections 2 to 10, inclusive, of this act, any regulations adopted pursuant thereto and any requirements of the program.

2. A condition, stipulation or provision in a contract entered into before, on or after July 1, 2023, that conflicts with the requirements of subsection 1 is against the public policy of this State and is void and unenforceable.

3. Notwithstanding any other provision of law, a person may not be arrested, charged, prosecuted or convicted or have his or her property subjected to forfeiture for consuming or possessing drugs in accordance with the requirements of a program for the prevention of overdoses and disease, sections 2 to 10, inclusive, of this act and any regulations adopted pursuant thereto at a hygienic space operated by the program.



Sec. 11. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and
NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095,
49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030,
62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152,
80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,
87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640,
120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730,
127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312,
130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015,
176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,
200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,
209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,
213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,
218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570,
231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105,
239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050,
239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420,
240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335,
247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150,
268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195,
281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755,
281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438,
289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,
293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910,
293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420,
349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242,
361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080,
378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830,
385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503,
388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035,
391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271,
392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045,
394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465,
396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525,
396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888,
408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305,
422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028,



1 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407,
2 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534,
3 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116,
4 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170,
5 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
6 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209,
7 449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805,
8 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555,
9 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
10 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940,
11 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340,
12 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830,
13 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040,
14 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098,
15 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303,
16 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
17 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110,
18 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
19 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672,
20 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332,
21 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283,
22 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055,
23 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158,
24 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087,
25 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185,
26 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620,
27 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340,
28 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217,
29 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760,
30 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180,
31 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
32 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
33 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126,
34 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130,
35 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480,
36 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710,
37 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190,
38 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410,
39 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306,
40 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480,
41 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536,
42 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550,
43 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159,
44 711.600, *and section 9 of this act*, sections 35, 38 and 41 of chapter
45 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes



1 of Nevada 2013 and unless otherwise declared by law to be
2 confidential, all public books and public records of a governmental
3 entity must be open at all times during office hours to inspection by
4 any person, and may be fully copied or an abstract or memorandum
5 may be prepared from those public books and public records. Any
6 such copies, abstracts or memoranda may be used to supply the
7 general public with copies, abstracts or memoranda of the records or
8 may be used in any other way to the advantage of the governmental
9 entity or of the general public. This section does not supersede or in
10 any manner affect the federal laws governing copyrights or enlarge,
11 diminish or affect in any other manner the rights of a person in any
12 written book or record which is copyrighted pursuant to federal law.

13 2. A governmental entity may not reject a book or record
14 which is copyrighted solely because it is copyrighted.

15 3. A governmental entity that has legal custody or control of a
16 public book or record shall not deny a request made pursuant to
17 subsection 1 to inspect or copy or receive a copy of a public book or
18 record on the basis that the requested public book or record contains
19 information that is confidential if the governmental entity can
20 redact, delete, conceal or separate, including, without limitation,
21 electronically, the confidential information from the information
22 included in the public book or record that is not otherwise
23 confidential.

24 4. If requested, a governmental entity shall provide a copy of a
25 public record in an electronic format by means of an electronic
26 medium. Nothing in this subsection requires a governmental entity
27 to provide a copy of a public record in an electronic format or by
28 means of an electronic medium if:

29 (a) The public record:

30 (1) Was not created or prepared in an electronic format; and

31 (2) Is not available in an electronic format; or

32 (b) Providing the public record in an electronic format or by
33 means of an electronic medium would:

34 (1) Give access to proprietary software; or

35 (2) Require the production of information that is confidential
36 and that cannot be redacted, deleted, concealed or separated from
37 information that is not otherwise confidential.

38 5. An officer, employee or agent of a governmental entity who
39 has legal custody or control of a public record:

40 (a) Shall not refuse to provide a copy of that public record in the
41 medium that is requested because the officer, employee or agent has
42 already prepared or would prefer to provide the copy in a different
43 medium.

44 (b) Except as otherwise provided in NRS 239.030, shall, upon
45 request, prepare the copy of the public record and shall not require



1 the person who has requested the copy to prepare the copy himself
2 or herself.

3 **Sec. 12.** This act becomes effective on July 1, 2023.

