

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

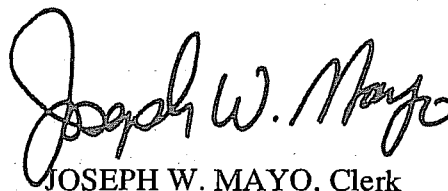
No. 1256

H.P. 933

House of Representatives, April 13, 1993

An Act to Authorize a Demonstration Needle Exchange Program.

Reference to the Committee on Human Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative MITCHELL of Freeport.
Cosponsored by Representatives: ADAMS of Portland, CATHCART of Orono, HOLT of Bath,
RYDELL of Brunswick, Senator: McCORMICK of Kennebec.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA c. 251, sub-c. III-A is enacted to read:

SUBCHAPTER III-A

NEEDLE EXCHANGE PROGRAM

§1241. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Authorized person. "Authorized person" means an employee of the bureau, or of a private agency that operates the program, who has been authorized by the director to have access to needles, syringes or records in order to carry out the purposes of this subchapter.

2. Bureau. "Bureau" means the Bureau of Health within the department.

3. Committee. "Committee" means the Committee to Advise the Department of Human Services on AIDS, as established by Title 5, section 12004-I, subsection 42.

4. Director. "Director" means the Director of the Bureau of Health.

5. HIV. "HIV" means the human immunodeficiency virus.

6. Participant. "Participant" means a user of injection drugs who exchanges a sterile needle and syringe unit in accordance with this subchapter.

7. Program. "Program" means a sterile needle and syringe exchange program authorized pursuant to section 1242.

§1242. Authorization of program

The director may authorize a demonstration sterile needle and syringe exchange program. To the extent that funds are available, the bureau may administer the program or may authorize a private agency to administer the program.

§1243. Purpose of program

The purpose of the program is to:

2 1. Prevent spread of blood-borne diseases. Prevent the
transmission of HIV, the hepatitis B virus and other blood-borne
diseases; and

4 2. Information and referral. Provide users of injection
6 drugs with information and referrals to appropriate health and
social services.

8 **§1244. Program operation**

10 1. Security. The program must provide maximum security of
12 the exchange site and equipment, including full accounting of the
number of needles and syringes in use and the number in storage
14 and any other measure required to control the use and dispersal
of sterile needles and syringes.

16 2. One-for-one exchange. The program must provide
18 one-for-one exchange in which a participant receives one sterile
needle and syringe unit in exchange for each used one.

20 3. Screening. The program must screen participants to
22 ensure that only users of injection drugs participate.

24 4. Staff controls. Only authorized persons may have access
to needles, syringes or records. The bureau shall keep a list of
26 authorized persons.

28 5. Services. The program must:

30 A. Educate participants about the dangers of contracting
HIV infection through needle-sharing practices; and

32 B. Offer participants counseling services and referrals for
34 substance abuse treatment.

36 6. Data. The program must compile research data on
behavioral changes, enrollment in drug abuse treatment,
38 counseling and education programs, disease transmission and other
information that may be relevant and useful to assist in the
40 planning and evaluation of efforts to combat the spread of
blood-borne diseases.

42 **§1245. Criminal immunity**

44 1. Trafficking or furnishing needles. Authorized persons
46 are "expressly authorized" within the meaning of Title 17-A,
section 1110, subsection 1, paragraph A.

2 2. Possessing needles. Participants and authorized persons
are "expressly authorized" within the meaning of Title 17-A,
section 1111, subsection 1, paragraph A.

4 3. Immunity limited. This subchapter does not provide
6 immunity from prosecution for violation of any law prohibiting or
regulating the use, possession, dispensing, distribution or
8 promotion of controlled substances, dangerous drugs, detrimental
drugs or harmful drugs.

10 §1246. Program oversight

12 The director shall seek assistance and advice from the
14 committee regarding adoption of rules, selection of a program
16 site and provider, ongoing review of the program and analysis of
program data.

18 §1247. Report

20 If a program is implemented under this subchapter, the
22 bureau shall submit a report by February 1, 1995 to the joint
standing committees of the Legislature having jurisdiction over
24 human resources matters and judiciary matters. The report may
not contain information that is confidential under section 1248.
26 The report must describe the strengths and weaknesses of the
program, the advisability of its continuation, any recommended
28 amendments to the law and other information that may be helpful
to the Legislature in evaluating the program's efficacy,
including but not limited to:

30 1. Number served. The number of participants and the
32 number of needles and syringes distributed;

34 2. Demographic profile. A demographic profile of the
participants, including but not limited to age, sex, area of
36 residence, occupation, types of drugs used, length of drug use
and frequency of injection;

38 3. Impact. Impact of the program on needle and syringe
40 sharing and other high-risk behavior and impact on the
transmission of HIV infection among users of injection drugs;

42 4. Social services data. Data regarding participants' use
44 of social services, including but not limited to HIV testing,
counseling and drug treatment; and

46 5. Cost effectiveness. An assessment of the cost
48 effectiveness of the program.

50 §1248. Confidentiality

2 Information collected under this subchapter that identifies
3 or permits the identification of a participant is confidential.
4 A person who releases information that is confidential under this
5 section commits a civil violation for which a forfeiture not to
6 exceed \$1,000 per violation may be adjudged. The director and
7 authorized persons have access to information that is
8 confidential under this section.

10 **§1249. Funding**

12 The department may accept private or federal funds and may
13 authorize a private agency with its own funds to carry out the
14 purposes of this subchapter.

16 **§1250. Rules**

18 Prior to implementation of the program, the department shall
19 adopt rules to implement this subchapter.

20 **§1251. Sunset**

22 This subchapter is repealed on July 1, 1995.
24

26 **STATEMENT OF FACT**

28 This bill allows the Bureau of Health within the Department
29 of Human Services to authorize a demonstration needle exchange
30 program to reduce the spread of HIV and other blood-borne
31 diseases. If a program is authorized, its employees are granted
32 immunity from criminal prosecution for trafficking, furnishing or
33 possessing needles, and program participants are granted immunity
34 from criminal prosecution for possessing needles. Authority to
 conduct the demonstration program is repealed on July 1, 1995.