

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 949

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H.P. 704

House of Representatives, February 21, 2019

### An Act To Prevent Overdose Deaths

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Reference to the Committee on Health and Human Services suggested and ordered printed.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT  
Clerk

Presented by Representative SYLVESTER of Portland.  
Cosponsored by Representatives: CARDONE of Bangor, FECTEAU of Biddeford, HANDY of Lewiston, MADIGAN of Waterville, McCREIGHT of Harpswell, MOONEN of Portland, TALBOT ROSS of Portland, WARREN of Hallowell.

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

2 **Sec. 1. 5 MRSA §20056** is enacted to read:

3 **§20056. Safer drug use facilities**

4 **1. Certification.** The department shall certify a safer drug use facility, referred to in  
5 this section as "a facility," that in the department's determination meets the requirements  
6 under subsection 2. A municipal health department under Title 22, section 411,  
7 subsection 10, community-based organization, hospital or health center may apply to the  
8 department for certification of a facility pursuant to this subsection with the consent of  
9 the municipal officers of the municipality in which the facility is located. The department  
10 shall notify the applicant of the department's determination within 45 days of receipt of  
11 the application, and, if the department denies the application, the department shall include  
12 with the denial a written explanation of the department's determination, including an  
13 explanation of any defects in the application that may prevent the certification of the  
14 proposed facility. An applicant who receives a denial under this subsection may appeal  
15 the denial to the commission; a majority vote of the commission is binding. A denied  
16 applicant may reapply for certification at any time after denial.

17 **2. Facility requirements.** In order to qualify for certification under subsection 1, a  
18 facility shall:

19 A. Provide a location supervised by a health care professional and other trained staff  
20 where a client may self-administer previously obtained drugs;

21 B. Provide sterile drug use supplies, collect used hypodermic needles and syringes  
22 and provide secure hypodermic needle and syringe disposal services;

23 C. Provide overdose prevention education;

24 D. Distribute or administer naloxone hydrochloride;

25 E. Provide testing for human immunodeficiency virus, viral hepatitis and sexually  
26 transmitted infections and educate clients on the risks of contracting human  
27 immunodeficiency virus, viral hepatitis and sexually transmitted infections;

28 F. Answer questions about safer injection practices;

29 G. Administer first aid, monitor clients for potential overdose and administer  
30 medications to relieve an acute exacerbation of a health condition;

31 H. Provide referrals to services, including substance use disorder counseling and  
32 treatment, reproductive health education and services and wound care; and

33 I. Provide reasonable and adequate security of the facility and equipment.

34 **3. Facility revenue.** A facility may bill an insurance carrier of a client for the costs  
35 of covered services; accept a donation, grant or other financial assistance; and apply for a  
36 grant from the department or any nonprofit or private organization.

37 **4. Report to department.** A facility shall collect and report to the department  
38 aggregate demographic information, data acquired at the facility level and outcomes and

1 other information required by the department under subsection 5. A facility shall keep  
2 private health information confidential in accordance with federal and state law regarding  
3 confidentiality of personal health care information and may not disclose the information  
4 without the explicit written consent of the client who is the subject of the health care  
5 information, except as required by federal or state law. A facility shall provide a detailed  
6 report under this subsection to the department on or before November 15th of each year  
7 for the prior 12-month period ending on October 31st.

8 **5. Department duties.** The department shall define by rule the demographic  
9 information and data acquired at the facility level to be collected and reported by a  
10 facility under subsection 4 and evaluate the data provided by the facility to gauge  
11 program effectiveness and identify best practices in the operation of a facility. The  
12 department shall evaluate the effectiveness of all facilities certified under subsection 1  
13 and submit a report of the evaluation accompanied by individual facility reports to the  
14 joint standing committee of the Legislature having jurisdiction over health and human  
15 services matters on or before January 31st of each year.

16 **6. Immunity from arrest and prosecution.** A person acting in accordance with this  
17 section, including a client who uses the services of a facility; a staff member and  
18 contractor of a facility, including a health care professional, manager, employee and  
19 volunteer; and a facility's owner, may not be:

20 A. Arrested, prosecuted or subject to any civil or administrative penalty, including  
21 civil or disciplinary action by a professional licensing board;

22 B. Denied any right or privilege for involvement in the operation or use of services  
23 of a facility; or

24 C. Subject to the seizure or forfeiture of any real or personal property used in  
25 connection with a facility.

26 This subsection does not apply to a person engaging in any activity not authorized or  
27 approved under this section.

28 **7. Tolerance zone.** A person may not be arrested, prosecuted or subject to a  
29 revocation of probation for a violation of Title 17-A, section 1107-A, 1108, 1111 or  
30 1111-A if the grounds for the arrest, prosecution or probation revocation were obtained  
31 within 1/2 mile of the facility.

32 **8. Rules.** The department may adopt routine technical rules as defined by chapter  
33 375, subchapter 2-A to carry out the provisions of this section.

34 **Sec. 2. Establishment of safer drug use facilities; review.** The Department  
35 of Health and Human Services shall certify 2 safer drug use facilities under the Maine  
36 Revised Statutes, Title 5, section 20056 in locations the department determines to most  
37 effectively reach the appropriate populations in the State. The department shall review  
38 the effectiveness of the facilities to determine whether to continue operation of the  
39 facilities or certify additional facilities. On or before November 4, 2021, the department  
40 shall submit a report on the review and the department's conclusions to the joint standing  
41 committee of the Legislature having jurisdiction over health and human services matters.

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## SUMMARY

2           This bill directs the Department of Health and Human Services to certify 2 facilities  
3 in the State to provide safe and secure locations for people to self-administer previously  
4 obtained drugs. The bill requires the facilities to have health care personnel and other  
5 trained staff, to provide information concerning drug overdoses and diseases associated  
6 with drug use, to administer first aid or other medications in case of an overdose and to  
7 provide referrals to other services that clients of the facilities may need. The bill provides  
8 immunity from arrest or prosecution to clients and staff members acting in accordance  
9 with the provisions of the bill and creates a tolerance zone within 1/2 mile of each  
10 facility. The facilities are directed to report certain demographic and other information to  
11 the department, which is directed to analyze the information and report to the joint  
12 standing committee of the Legislature having jurisdiction over health and human services  
13 matters. The department is also directed to review the effectiveness of the facilities to  
14 determine whether to open additional facilities.