

## Tenn. Code Ann. § 68-1-136

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### 68-1-136. Needle and hypodermic syringe exchange program.

(a) If approved by the department of health, a county or district health department pursuant to subsection (i) or any nongovernmental organization, including an organization that promotes scientifically proven ways of mitigating health risks associated with drug use and other high-risk behaviors, may establish and operate a **needle and hypodermic syringe exchange program**. The objectives of the **program** shall be to do all of the following:

- (1) Reduce the spread of human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), viral hepatitis, and other bloodborne diseases in this state;
- (2) Reduce **needle** stick injuries to law enforcement officers and other emergency personnel; and
- (3) Encourage individuals who inject drugs to enroll in evidence-based treatment.

(b) **Programs** established pursuant to this section shall offer all of the following:

- (1) Disposal of used **needles** and **hypodermic syringes**;
- (2) **Needles, hypodermic syringes**, and other injection supplies at no cost and in quantities sufficient to ensure that **needles, hypodermic syringes**, and other injection supplies are not shared or reused. A **program** shall strive for one-to-one **syringe exchanges**. No public funds may be used by a nongovernmental organization to purchase **needles, hypodermic syringes**, or other injection supplies;
- (3) Reasonable and adequate security of **program** sites, equipment, and personnel. Written plans for security shall be provided to the law enforcement offices with jurisdiction in the **program** location and shall be updated annually;
- (4) Educational materials on all of the following:
  - (A) Overdose prevention;

- (B) The prevention of HIV, AIDS, and viral hepatitis transmission;
- (C) Drug abuse prevention;
- (D) Treatment for mental illness, including treatment referrals; and
- (E) Treatment for substance abuse, including referrals for medication assisted treatment;
- (5) Access to naloxone for the treatment of a drug overdose, or referrals to **programs** that provide access to naloxone for the treatment of a drug overdose; and
- (6) Personal consultations from a **program** employee or volunteer concerning mental health or addiction treatment as appropriate for each individual requesting services.

(c)

(1) It is an exception to the application of title 39, chapter 17, part 4, if an employee, volunteer, or participant of a **program** established pursuant to this section possesses any of the following:

(A) **Needles, hypodermic syringes**, or other injection supplies obtained from or returned to a **program** established pursuant to this section; or

(B) Residual amounts of a controlled substance contained in a used **needle**, used **hypodermic syringe**, or used injection supplies obtained from or returned to a **program** established pursuant to this section.

(2)

(A) The exception provided in this subsection (c) shall apply only if the person claiming the exception provides written verification that a **needle, syringe**, or other injection supplies were obtained from a **needle and hypodermic syringe exchange program** established pursuant to this section. For a participant in the **program**, this exception shall only apply to possession when the participant is engaged in the **exchange** or in transit to or from the **exchange**.

(B) In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer who, acting on good faith, arrests or charges a person who is thereafter determined to be entitled to immunity from prosecution under this section shall not be subject to civil liability for the arrest or filing of charges.

(3) In addition to any other applicable immunity or limitation on civil liability, a nongovernmental organization and an employee or volunteer of that organization are not subject to civil liability for establishing, operating, or participating in a **program** established pursuant to this section in the absence of gross negligence or willful, intentional, or malicious conduct.

(d) Prior to commencing operations of a **program** established pursuant to this section and obtaining approval from the department of health as required by subsection (a), the county or district health department pursuant to subsection (i) or the nongovernmental organization shall report to the department of health all of the following information:

(1) The legal name of the organization or agency operating the **program**;

(2) The areas and populations to be served by the **program**; and

(3) The methods by which the **program** will meet the requirements of subsection (b).

(e) Not later than one (1) year after commencing operations of a **program** established pursuant to this section, and every twelve (12) months thereafter, each county or district health department pursuant to subsection (i) or organization operating such a **program** shall report the following information to the

department of health:

**(1)** The number of individuals served by the **program**;

**(2)** The number of **needles, hypodermic syringes**, and **needle** injection supplies dispensed by the **program** and returned to the **program**;

**(3)** The number of naloxone kits distributed by the **program**; and

**(4)** The number and type of treatment referrals provided to individuals served by the **program**, including a separate report of the number of individuals referred to **programs** that provide access to naloxone that is approved by the federal food and drug administration for the treatment of a drug overdose.

**(f)** The department of health shall annually compile a report containing the information submitted to the department pursuant to subsection (e) and submit the report to the members of the general assembly.

**(g)**

**(1)** Except as otherwise provided in subdivision (g)(2), a **program** established pursuant to this section shall not conduct an **exchange** within one thousand feet (1,000') of a school or public park.

**(2)** A **program** established pursuant to this section in a municipality having a population of not less than fifty-five thousand four hundred forty (55,440) nor more than fifty-five thousand four hundred fifty (55,450), according to the 2020 federal census or a subsequent federal census, shall not conduct an **exchange** within two thousand feet (2,000') of a school or public park.

**(h)** The commissioner of health is authorized to promulgate rules to effectuate the purposes of this section. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

**(i)** On a petition to a county health department under chapter 2, part 6 of this title, or a district health department under chapter 2, part 7 of this title, by a county legislative body for the establishing and operating of a **needle and hypodermic syringe exchange program** in the petitioning county, the county or district health department may subsequently seek approval of the department of health under subsection (a) to establish and operate a **needle and hypodermic syringe exchange program** in the petitioning county.

**(j)** **Needle and hypodermic syringe exchange programs** established under subsection (i) shall be funded entirely by the county legislative body making petition to the county or district health department.

## History

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