

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0259.01 Yelana Love x2295

SENATE BILL 18-040

SENATE SPONSORSHIP

Lambert and Jahn, Aguilar, Moreno, Priola, Tate

HOUSE SPONSORSHIP

Singer, Kennedy, Pettersen

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO ADDRESS THE OPIOID CRISIS IN
102 COLORADO, AND, IN CONNECTION THEREWITH, PROVIDING
103 IMMUNITY FOR INDIVIDUALS WHO PROVIDE CLEAN SYRINGES
104 THROUGH A CLEAN SYRINGE EXCHANGE PROGRAM, CREATING
105 A SUPERVISED INJECTION FACILITY PILOT PROGRAM, ALLOWING
106 SCHOOL DISTRICTS TO DEVELOP POLICIES FOR THE SUPPLY AND
107 ADMINISTRATION OF OPIATE ANTAGONISTS, AND REQUIRING THE
108 COMMISSION ON CRIMINAL AND JUVENILE JUSTICE TO STUDY
109 CERTAIN TOPICS RELATED TO SENTENCING FOR
110 OPIOID-RELATED OFFENSES.

Bill Summary

(Note: This summary applies to this bill as introduced and does

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Opioid and Other Substance Use Disorders Interim Study Committee. The bill:

- ! Specifies that hospitals may be used as clean syringe exchange sites (**section 1**);
- ! Provides civil immunity for participants of a clean syringe exchange program (**section 1**);
- ! Creates a supervised injection facility pilot program in the city and county of Denver and provides civil and criminal immunity for the approved supervised injection facility (**sections 2 through 4**);
- ! Allows school districts and nonpublic schools to develop a policy by which schools are allowed to obtain a supply of opiate antagonists and school employees are trained to administer opiate antagonists to individuals at risk of experiencing a drug overdose (**sections 5 through 11**); and
- ! Requires the commission on criminal and juvenile justice to study certain topics related to sentencing for opioid-related offenses (**section 12**).

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25-1-520, **add** (2.5)
3 and (7) as follows:

4 **25-1-520. Clean syringe exchange programs - approval -**
5 **reporting requirements.** (2.5) A PROGRAM DEVELOPED PURSUANT TO
6 THIS SECTION MAY BE OPERATED IN A HOSPITAL LICENSED OR CERTIFIED
7 BY THE STATE DEPARTMENT PURSUANT TO SECTION 25-1.5-103 (1)(a).

8 (7) AN INDIVIDUAL WHO PROVIDES A CLEAN SYRINGE IN
9 ACCORDANCE WITH A CLEAN SYRINGE EXCHANGE PROGRAM ESTABLISHED
10 UNDER THIS SECTION IS NOT LIABLE FOR ANY CIVIL DAMAGES RESULTING
11 FROM THE ACT.

12 **SECTION 2.** In Colorado Revised Statutes, **add** 25-1-521 as

1 follows:

2 **25-1-521. Supervised injection facility pilot program -**
3 **approval - immunity - reporting requirements - definitions - repeal.**

4 (1) THERE IS HEREBY ESTABLISHED A SUPERVISED INJECTION FACILITY
5 PILOT PROGRAM TO ALLOW A PROCESS FOR APPROVING AND ESTABLISHING
6 A SUPERVISED INJECTION FACILITY IN THE CITY AND COUNTY OF DENVER.
7 THE DENVER PUBLIC HEALTH AGENCY MAY SEEK APPROVAL FROM THE
8 DENVER BOARD OF HEALTH, IN ACCORDANCE WITH THE PROCESS
9 SPECIFIED IN SUBSECTION (2) OF THIS SECTION, TO OPERATE A SUPERVISED
10 INJECTION FACILITY AS A PART OF AN APPROVED CLEAN SYRINGE
11 EXCHANGE PROGRAM ESTABLISHED AND OPERATING PURSUANT TO
12 SECTION 25-1-520. THE DENVER PUBLIC HEALTH AGENCY MAY CONTRACT
13 WITH A NONPROFIT ORGANIZATION OPERATING ITS CLEAN SYRINGE
14 EXCHANGE PROGRAM TO OPERATE AN APPROVED SYRINGE INJECTION
15 FACILITY.

16 (2) PRIOR TO APPROVING OR DISAPPROVING A SUPERVISED
17 INJECTION FACILITY, THE BOARD SHALL CONSULT WITH THE DENVER
18 PUBLIC HEALTH AGENCY AND INTERESTED STAKEHOLDERS CONCERNING
19 THE ESTABLISHMENT OF THE FACILITY. INTERESTED STAKEHOLDERS MUST
20 INCLUDE LOCAL LAW ENFORCEMENT AGENCIES, DISTRICT ATTORNEYS,
21 SUBSTANCE USE DISORDER TREATMENT PROVIDERS, PERSONS WITH A
22 SUBSTANCE USE DISORDER IN REMISSION, NONPROFIT ORGANIZATIONS,
23 HEPATITIS C AND HIV ADVOCACY ORGANIZATIONS, AND MEMBERS OF THE
24 COMMUNITY.

25 (3) THE BOARD MAY APPROVE OR DISAPPROVE THE PROPOSED
26 SUPERVISED INJECTION FACILITY BASED ON THE RESULTS OF THE MEETINGS
27 HELD PURSUANT TO SUBSECTION (2) OF THIS SECTION; EXCEPT THAT THE

1 BOARD MAY APPROVE, AND THE DENVER PUBLIC HEALTH AGENCY MAY
2 OPERATE, ONLY ONE SUPERVISED INJECTION FACILITY WITHIN THE CITY
3 AND COUNTY OF DENVER DURING THE PILOT PROGRAM.

4 (4) **Immunity.** (a) NOTWITHSTANDING ANY OTHER LAW, A
5 PERSON PARTICIPATING AS AN EMPLOYEE, VOLUNTEER, OR PARTICIPANT
6 IN AN APPROVED SUPERVISED INJECTION FACILITY IS NOT LIABLE FOR ANY
7 CIVIL DAMAGES OR CRIMINAL PENALTIES RESULTING FROM PARTICIPATION.

8 (b) A SUPERVISED INJECTION FACILITY OPERATING PURSUANT TO
9 THIS SECTION DOES NOT CONSTITUTE A PUBLIC NUISANCE FOR PURPOSES
10 OF SECTIONS 16-13-303 TO 16-13-306.

11 (5) NO LATER THAN OCTOBER 1, 2021, THE DENVER PUBLIC
12 HEALTH AGENCY OR NONPROFIT ORGANIZATION THAT OPERATES A
13 SUPERVISED INJECTION FACILITY PURSUANT TO THIS SECTION SHALL
14 PROVIDE A REPORT TO THE HOUSE OF REPRESENTATIVES COMMITTEE ON
15 HEALTH, INSURANCE, AND ENVIRONMENT AND THE SENATE COMMITTEE ON
16 HEALTH AND HUMAN SERVICES, OR THEIR SUCCESSOR COMMITTEES, THAT
17 INCLUDES:

18 (a) THE NUMBER OF PROGRAM PARTICIPANTS;

19 (b) AGGREGATE INFORMATION REGARDING THE CHARACTERISTICS
20 OF PROGRAM PARTICIPANTS;

21 (c) THE NUMBER OF SYRINGES DISTRIBUTED FOR USE ON SITE;

22 (d) THE NUMBER OF OVERDOSES EXPERIENCED AND REVERSED ON
23 SITE; AND

24 (e) THE NUMBER OF INDIVIDUALS DIRECTLY AND FORMALLY
25 REFERRED TO OTHER SERVICES AND THE TYPE OF SERVICE.

26 (6) IF THE BOARD APPROVES A SUPERVISED INJECTION FACILITY
27 THAT IS OPERATED THROUGH A CONTRACT WITH A NONPROFIT

1 ORGANIZATION, THE CONTRACT SHALL BE SUBJECT TO ANNUAL REVIEW
2 AND SHALL BE RENEWED ONLY IF THE BOARD APPROVES THE CONTRACT
3 AFTER CONSULTATION WITH THE DENVER PUBLIC HEALTH AGENCY AND
4 INTERESTED STAKEHOLDERS AS DESCRIBED IN SUBSECTION (2) OF THIS
5 SECTION.

6 (7) A SUPERVISED INJECTION FACILITY OPERATED PURSUANT TO
7 THIS SECTION MUST MAINTAIN COMPLIANCE WITH SECTION 25-1-520 (2).

8 (8) AS USED IN THIS SECTION:

9 (a) "BOARD" OR "DENVER BOARD OF HEALTH" MEANS THE BOARD
10 OF HEALTH FOR THE CITY AND COUNTY OF DENVER.

11 (b) "DENVER PUBLIC HEALTH AGENCY" MEANS THE PUBLIC HEALTH
12 AGENCY FOR THE CITY AND COUNTY OF DENVER.

13 (c) "SUPERVISED INJECTION FACILITY" MEANS A FACILITY:

14 (I) DESIGNED TO PROVIDE A SPACE FOR PEOPLE TO INJECT
15 PREVIOUSLY OBTAINED DRUGS UNDER THE SUPERVISION OF HEALTH CARE
16 PROFESSIONALS OR OTHER TRAINED STAFF; AND

17 (II) THAT MAY PROVIDE OTHER RELATED SERVICES INCLUDING
18 SYRINGE ACCESS, OVERDOSE PREVENTION, AND REFERRALS TO SUBSTANCE
19 USE DISORDER TREATMENT AND OTHER SERVICES.

20 (9) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

21 **SECTION 3.** In Colorado Revised Statutes, 25-1-508, **add** (5)(m)
22 as follows:

23 **25-1-508. County or district boards of public health - public**
24 **health directors - repeal.** (5) In addition to all other powers and duties
25 conferred and imposed upon a county board of health or a district board
26 of health by the provisions of this subpart 3, a county board of health or
27 a district board of health shall have and exercise the following specific

1 powers and duties:

2 (m) (I) TO APPROVE, AS PROVIDED FOR IN SECTION 25-1-521, A
3 SUPERVISED INJECTION FACILITY PROPOSED BY AN AGENCY. A COUNTY
4 BOARD OF HEALTH OR DISTRICT BOARD OF HEALTH IS NOT REQUIRED TO
5 APPROVE A PROPOSED PROGRAM.

6 (II) THIS SUBSECTION (5)(m) IS REPEALED, EFFECTIVE SEPTEMBER
7 1, 2022.

8 **SECTION 4.** In Colorado Revised Statutes, **amend** 18-18-430.5
9 as follows:

10 **18-18-430.5. Drug paraphernalia - exemption - repeal.** (1) A
11 person shall be exempt from the provisions of sections 18-18-425 to
12 18-18-430 if he or she is participating as an employee, volunteer, or
13 participant in:

14 (a) An approved syringe exchange program created pursuant to
15 section 25-1-520; ~~C.R.S.~~ OR

16 (b) (I) A SUPERVISED INJECTION FACILITY CREATED PURSUANT TO
17 SECTION 25-1-521.

18 (II) THIS SUBSECTION (1)(b) IS REPEALED, EFFECTIVE SEPTEMBER
19 1, 2022.

20 **SECTION 5.** In Colorado Revised Statutes, 12-36-117.7, **amend**
21 (1) introductory portion, (1)(c), (1)(d), and (3)(c); and **add** (1)(e) and
22 (6)(f.5) as follows:

23 **12-36-117.7. Prescribing opiate antagonists - definitions.** (1) A
24 physician or physician assistant licensed pursuant to this ~~article~~ ARTICLE
25 36 may prescribe or dispense, directly or in accordance with standing
26 orders and protocols, an opiate antagonist to:

27 (c) An employee or volunteer of a harm reduction organization;

1 or

2 (d) A first responder; OR

3 (e) AN EMPLOYEE OR AGENT OF A SCHOOL.

4 (3) A licensed physician or physician assistant does not engage in
5 unprofessional conduct pursuant to section 12-36-117 if the physician or
6 physician assistant issues standing orders and protocols regarding opiate
7 antagonists or prescribes or dispenses an opiate antagonist in a good-faith
8 effort to assist:

9 (c) A first responder, or an employee or volunteer of a harm
10 reduction organization, OR AN EMPLOYEE OR AGENT OF A SCHOOL in
11 responding to, treating, or otherwise assisting an individual who is
12 experiencing or is at risk of experiencing an opiate-related drug overdose
13 event or a friend, family member, or other person in a position to assist
14 an at-risk individual.

15 (6) As used in this section:

16 (f.5) "SCHOOL" MEANS AN ELEMENTARY OR SECONDARY PUBLIC
17 OR NONPUBLIC SCHOOL WHOSE GOVERNING AUTHORITY HAS ADOPTED AND
18 IMPLEMENTED A POLICY PURSUANT TO SECTION 22-1-119.1.

19 **SECTION 6.** In Colorado Revised Statutes, 12-38-125.5, **amend**
20 (1)(c), (1)(d), and (3)(c); and **add** (1)(e) and (6)(f.5) as follows:

21 **12-38-125.5. Prescribing opiate antagonists - definitions.**

22 (1) An advanced practice nurse with prescriptive authority pursuant to
23 section 12-38-111.6 may prescribe or dispense, directly or in accordance
24 with standing orders and protocols, an opiate antagonist to:

25 (c) An employee or volunteer of a harm reduction organization;

26 or

27 (d) A first responder; OR

1 (e) AN EMPLOYEE OR AGENT OF A SCHOOL.

2 (3) An advanced practice nurse with prescriptive authority does
3 not engage in conduct that is grounds for discipline pursuant to section
4 12-38-117 if the advanced practice nurse issues standing orders and
5 protocols regarding opiate antagonists or prescribes or dispenses an opiate
6 antagonist in a good-faith effort to assist:

7 (c) A first responder, ~~or~~ an employee or volunteer of a harm
8 reduction organization, OR AN EMPLOYEE OR AGENT OF A SCHOOL in
9 responding to, treating, or otherwise assisting an individual who is
10 experiencing or is at risk of experiencing an opiate-related drug overdose
11 event or a friend, family member, or other person in a position to assist
12 an at-risk individual.

13 (6) As used in this section:

14 (f.5) "SCHOOL" MEANS AN ELEMENTARY OR SECONDARY PUBLIC
15 OR NONPUBLIC SCHOOL WHOSE GOVERNING AUTHORITY HAS ADOPTED AND
16 IMPLEMENTED A POLICY PURSUANT TO SECTION 22-1-119.1.

17 **SECTION 7.** In Colorado Revised Statutes, 12-42.5-105, **amend**
18 (2) as follows:

19 **12-42.5-105. Rules.** (2) On or before January 1, ~~2016~~ 2019, the
20 board shall adopt or amend rules as necessary to permit the dispensing of
21 an opiate antagonist in accordance with section 12-42.5-120 (3).

22 **SECTION 8.** In Colorado Revised Statutes, 12-42.5-120, **amend**
23 (3)(a)(III), (3)(a)(IV), (3)(c)(I)(C), (3)(d)(I) introductory portion, and
24 (3)(d)(III); and **add** (3)(a)(V) and (3)(e)(VI.5) as follows:

25 **12-42.5-120. Prescription required - exception - dispensing**
26 **opiate antagonists - definitions.** (3) (a) A pharmacist may dispense,
27 pursuant to an order or standing orders and protocols, an opiate antagonist

1 to:

2 (III) An employee or volunteer of a harm reduction organization;

3 or

4 (IV) A first responder; OR

5 (V) AN EMPLOYEE OR AGENT OF A SCHOOL.

6 (c) (I) A pharmacist does not engage in unprofessional conduct
7 pursuant to section 12-42.5-123 if the pharmacist dispenses, pursuant to
8 an order or standing orders and protocols, an opiate antagonist in a
9 good-faith effort to assist:

10 (C) A first responder, or an employee or volunteer of a harm
11 reduction organization, OR AN EMPLOYEE OR AGENT OF A SCHOOL in
12 responding to, treating, or otherwise assisting an individual who is
13 experiencing or is at risk of experiencing an opiate-related drug overdose
14 event or a friend, family member, or other person in a position to assist
15 an at-risk individual.

16 (d) (I) A first responder, or an employee or volunteer of a harm
17 reduction organization, OR AN EMPLOYEE OR AGENT OF A SCHOOL may,
18 pursuant to an order or standing orders and protocols:

19 (III) A first responder, or an employee or volunteer of a harm
20 reduction organization, OR AN EMPLOYEE OR AGENT OF A SCHOOL acting
21 in accordance with this paragraph (d) SUBSECTION (3)(d) is not subject to
22 civil liability or criminal prosecution, as specified in sections 13-21-108.7
23 (3) and 18-1-712 (2), ~~C.R.S.~~, respectively.

24 (e) As used in this section:

25 (VI.5) "SCHOOL" MEANS AN ELEMENTARY OR SECONDARY PUBLIC
26 OR NONPUBLIC SCHOOL WHOSE GOVERNING AUTHORITY HAS ADOPTED AND
27 IMPLEMENTED A POLICY PURSUANT TO SECTION 22-1-119.1.

1 **SECTION 9.** In Colorado Revised Statutes, **add 22-1-119.1** as
2 follows:

3 **22-1-119.1. Policy for employee and agent possession and**
4 **administration of opiate antagonists - definitions.** (1) A SCHOOL
5 DISTRICT BOARD OF EDUCATION OF A PUBLIC SCHOOL, THE STATE CHARTER
6 SCHOOL INSTITUTE FOR AN INSTITUTE CHARTER SCHOOL, OR THE
7 GOVERNING BOARD OF A NONPUBLIC SCHOOL MAY ADOPT AND IMPLEMENT
8 A POLICY WHEREBY:

9 (a) SCHOOLS UNDER ITS JURISDICTION MAY ACQUIRE AND
10 MAINTAIN A STOCK SUPPLY OF OPIATE ANTAGONISTS; AND

11 (b) EMPLOYEES AND AGENTS OF THE SCHOOL MAY, AFTER
12 RECEIVING APPROPRIATE TRAINING, ADMINISTER AN OPIATE ANTAGONIST
13 ON SCHOOL GROUNDS TO ASSIST AN INDIVIDUAL WHO IS AT RISK OF
14 EXPERIENCING AN OPIATE-RELATED DRUG OVERDOSE EVENT.

15 (2) A POLICY ADOPTED PURSUANT TO THIS SECTION MUST INCLUDE
16 TRAINING AND EDUCATION FOR SCHOOL EMPLOYEES CONCERNING THE
17 RISK FACTORS FOR OVERDOSE, RECOGNIZING AN OVERDOSE, CALLING
18 EMERGENCY MEDICAL SERVICES, RESCUE BREATHING, AND ADMINISTERING
19 AN OPIATE ANTAGONIST.

20 (3) AN EMPLOYEE OR AGENT OF A SCHOOL ACTING IN ACCORDANCE
21 WITH A POLICY ADOPTED PURSUANT TO THIS SECTION IS NOT SUBJECT TO
22 CIVIL LIABILITY OR CRIMINAL PROSECUTION, AS SPECIFIED IN SECTIONS
23 13-21-108.7 (3) AND 18-1-712 (2), RESPECTIVELY.

24 (4) AS USED IN THIS SECTION:

25 (a) "OPIATE ANTAGONIST" MEANS NALOXONE HYDROCHLORIDE OR
26 ANY SIMILARLY ACTING DRUG THAT IS NOT A CONTROLLED SUBSTANCE
27 AND THAT IS APPROVED BY THE FEDERAL FOOD AND DRUG

1 ADMINISTRATION FOR THE TREATMENT OF A DRUG OVERDOSE.

2 (b) "OPIATE-RELATED DRUG OVERDOSE EVENT" MEANS AN ACUTE
3 CONDITION, INCLUDING A DECREASED LEVEL OF CONSCIOUSNESS OR
4 RESPIRATORY DEPRESSION, THAT:

5 (I) RESULTS FROM THE CONSUMPTION OR USE OF A CONTROLLED
6 SUBSTANCE OR ANOTHER SUBSTANCE WITH WHICH A CONTROLLED
7 SUBSTANCE WAS COMBINED;

8 (II) A LAYPERSON WOULD REASONABLY BELIEVE TO BE CAUSED BY
9 AN OPIATE-RELATED DRUG OVERDOSE EVENT; AND

10 (III) REQUIRES MEDICAL ASSISTANCE.

11 **SECTION 10.** In Colorado Revised Statutes, 13-21-108.7,
12 **amend** (3) as follows:

13 **13-21-108.7. Persons rendering emergency assistance through**
14 **the administration of an opiate antagonist - limited immunity -**
15 **legislative declaration - definitions. (3) General immunity.** A person,
16 other than a health care provider or a health care facility, who acts in
17 good faith to furnish or administer an opiate antagonist to an individual
18 the person believes to be suffering an opiate-related drug overdose event
19 or to an individual who is in a position to assist the individual at risk of
20 experiencing an opiate-related overdose event is not liable for any civil
21 damages for acts or omissions made as a result of the act. This subsection
22 (3) also applies to a first responder, ~~or~~ an employee or volunteer of a harm
23 reduction organization, OR AN EMPLOYEE OR AGENT OF A SCHOOL acting
24 in accordance with section 12-42.5-120 (3)(d). ~~C.R.S.~~

25 **SECTION 11.** In Colorado Revised Statutes, 18-1-712, **amend**
26 (2) as follows:

27 **18-1-712. Immunity for a person who administers an opiate**

1 **antagonist during an opiate-related drug overdose event - definitions.**

2 (2) **General immunity.** A person, other than a health care provider or a
3 health care facility, who acts in good faith to furnish or administer an
4 opiate antagonist to an individual the person believes to be suffering an
5 opiate-related drug overdose event or to an individual who is in a position
6 to assist the individual at risk of experiencing an opiate-related overdose
7 event is immune from criminal prosecution for the act. This subsection
8 (2) also applies to a first responder, ~~or~~ an employee or volunteer of a harm
9 reduction organization, ~~OR AN EMPLOYEE OR AGENT OF A SCHOOL~~ acting
10 in accordance with section 12-42.5-120 (3)(d). ~~C.R.S.~~

11 **SECTION 12.** In Colorado Revised Statutes, **add** 16-11.3-103.7
12 as follows:

13 **16-11.3-103.7. Study of penalties related to opioids and**
14 **synthetic opioids - repeal.** (1) AS SOON AS PRACTICABLE, THE
15 COMMISSION SHALL STUDY CRIMINAL PENALTIES RELATED TO OPIOIDS AND
16 SYNTHETIC OPIOIDS, AS SPECIFIED IN SECTION 18-18-204 (2), TO
17 DETERMINE:

18 (a) THE EFFICACY OF CRIMINAL PENALTIES RELATED TO THE
19 UNLAWFUL MANUFACTURING, DISTRIBUTION, DISPENSING, AND SALE OF
20 CARFENTANYL, FENTANYL, AND OTHER SYNTHETIC OPIOIDS; AND

21 (b) THE EXTENT TO WHICH CURRENT CRIMINAL PENALTIES FOR THE
22 UNLAWFUL USE AND POSSESSION OF OPIOIDS AND SYNTHETIC OPIOIDS
23 IMPACT THE ABILITY OF A PERSON WITH A SUBSTANCE USE DISORDER TO
24 SEEK TREATMENT.

25 (2) THE COMMISSION SHALL INCLUDE ITS FINDINGS AND ANY
26 RECOMMENDATIONS BASED ON ITS FINDINGS IN THE ANNUAL REPORT
27 SPECIFIED IN SECTION 16-11.3-103 (2)(c).

1 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

2 **SECTION 13. Applicability.** This act applies to offenses
3 committed on or after the effective date of this act.

4 **SECTION 14. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.