



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**HB 20-1065**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated January 15, 2020)

**Drafting Number:** LLS 20-0296  
**Prime Sponsors:** Rep. Kennedy; Herod  
Sen. Pettersen; Priola

**Date:** March 19, 2020  
**Bill Status:** House Appropriations  
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**Bill Topic:** **HARM REDUCTION SUBSTANCE USE DISORDERS**

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill requires health insurers to reimburse hospitals for prescribing opiate antagonists to covered individuals; creates immunity for individuals who administer an expired antagonist; allows pharmacists to sell non-prescribed clean syringes or needles to individuals without a prescription; allows nonprofits or health facilities to operate clean syringe programs; and increases appropriations to the Harm Reduction Grant Program Cash Fund. The bill increases state and local expenditures, and minimally decreases state revenue, on an ongoing basis.

**Appropriation Summary:** For FY 2020-21, this bill requires an appropriation of \$250,000 to the Department of Public Health and Environment. In addition, the bill continuously appropriates any money in the Harm Reduction Grant Program to the department beginning in FY 2020-21.

**Fiscal Note Status:** This revised fiscal note reflects the introduced bill as amended by the House Health and Human Services Committee. The bill was recommended by the Opioid and Other Substance Use Disorders Study Committee.

**Table 1  
State Fiscal Impacts Under HB 20-1065**

		<b>FY 2020-21</b>	<b>FY 2021-22</b>
<b>Revenue</b>		-	-
<b>Expenditure</b>	General Fund	\$250,000	\$250,000
<b>Transfer</b>		-	-
<b>TABOR Refund</b>		-	-

## **Summary of Legislation**

This bill makes changes to insurance reimbursements, clarifies civil and criminal immunity for administering expired opiate antagonists, allows pharmacists to sell clean syringes and needles, changes requirements for local clean syringe programs, and increases appropriations to the Harm Reduction Grant Program, as described below.

**Insurance reimbursements.** This bill requires health insurers to reimburse hospitals for providing opiate antagonists to covered individuals at discharge.

**Immunity for administering an expired opiate antagonists.** The bill clarifies that the existing immunity from criminal and civil penalties for persons who furnish or administer an opiate antagonist in good faith to a person experiencing or at risk of an opiate-related drug overdose also applies to *expired* opiate antagonists.

**Notifications of opiate antagonists.** The bill requires pharmacists to notify individuals who are prescribed an opioid about the availability of opiate antagonists, if, in their professional opinion, the person would benefit from such a notification. If Senate Bill 20-007 becomes law, this notification must indicate that the opiate antagonist is available free of charge..

**Selling of clean syringes.** The bill allows pharmacists to sell nonprescription syringes and needles to anyone without being in violation of Colorado's drug paraphernalia law.

**Clean syringe programs.** This bill allows nonprofits with experience operating a clean syringe program or health facilities to operate a clean syringe program. Before nonprofits can operate a program, they must first engage with stakeholders to discuss issues related to the program. Nonprofits and health facilities must report specific information to the Colorado Department of Public Health and Environment (CDPHE) each month.

**Harm Reduction Grant Program.** Finally, the bill requires the General Assembly to appropriate \$250,000 per year above the FY 2019-20 appropriation to the Harm Reduction Grant Program Cash Fund, which will result in total appropriations to the cash fund of \$2.1 million. In addition, the bill specifies that money in the cash fund is continually appropriated to the CDPHE.

## **Comparable Crime Analysis**

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of an existing crime. The following sections outline data on crimes that are comparable to the offense in this bill. Assumptions on future rates of criminal convictions under the bill are discussed in the Background and Assumptions section below.

**Prior conviction data on drug paraphernalia.** This bill allows pharmacists to sell clean syringes or needles without being in violation of Colorado's drug paraphernalia laws. Under these laws, possession of drug paraphernalia is a drug petty offense with a penalty of a fine of no more than \$100 and the manufacture, sale, or delivery of drug paraphernalia is a level 2 drug misdemeanor, which carries a sentence of a \$50 fine to 364 days in jail and a \$750 fine. From FY 2015-16 to FY 2017-18, 2,467 individuals have been convicted and sentenced for possessing drug paraphernalia and 5 individuals have been convicted and sentenced for the manufacture, sale, or delivery of drug paraphernalia. Of the persons convicted of both offenses, 1,683 were male, 785 were female, and 4 did not have a gender identified. Demographically, 2,164 were White,

143 were Black/African American, 122 were Hispanic, 10 were Asian, 4 were American Indian, 26 were classified as "Other," and 3 did not have a race identified. In addition, of those convicted, one individual was sentenced to jail for the manufacturing, sale, or delivery of drug paraphernalia.

Visit [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## **Background and Assumptions**

**Harm Reduction Grant Program.** In 2019, the General Assembly passed Senate Bill 19-008 which created the Harm Reduction Grant Program in the CDPHE and appropriated \$1.8 million for FY 2019-20. Based on the fiscal note for SB 19-008, it is assumed that the current appropriation amount of \$1.8 million will continue in FY 2020-21 and future fiscal years.

**Clean syringe programs.** The CDPHE supports 15 syringe exchange programs across 8 counties through contracts with local public health agencies and community-based organizations. The department does not manage local programs.

**Criminal justice impact.** Since it is unknown how many of those convicted for the above offenses were pharmacists who sold a non-prescribed syringe or needle, the fiscal note assumes that most pharmacists adhere to current law and, therefore, any change in criminal convictions will be minimal. Because the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note.

## **State Revenue**

Starting in FY 2020-21, Judicial Department revenue from civil filings fees and criminal fees and fines may decrease by a minimal amount due to changes in opiate antagonist immunity-related provisions. The fiscal note assumes that any decrease in revenue will be minimal.

## **State Expenditures**

This bill will increase General Fund expenditures in the CDPHE by \$250,000 per year starting in FY 2020-21. Conversely, the bill will minimally decrease state expenditures and workload for the Judicial Department and the Department of Regulatory Agencies (DORA) starting in FY 2020-21, as described below.

**Department of Public Health and Environment.** Starting in FY 2020-21, expenditures in the CDPHE will increase by \$250,000 to provide additional funding to the Harm Reduction Grant Program, as required by the bill. This funding must be appropriated to the Harm Reduction Grant Program Cash Fund, and will be expended by the CDPHE under the continuous spending authority granted by the bill. Workload in the CDPHE will also increase to administer additional grants. Further, expenditures will increase to provide additional support to any new clean syringe programs operated by nonprofits or health facilities. Because it is unknown how many more programs there will be, the fiscal note assumes that increases in appropriation will be requested through the annual budget process.

**Judicial Department.** Starting in FY 2020-21, workload and expenditures in the Judicial Department will decrease by a minimal amount due to changes in opiate antagonist immunity-related provisions. No change in appropriation is required.

**Department of Regulatory Agencies.** Starting in FY 2020-21, workload for the State Board of Pharmacy in DORA will decrease by a minimal amount due to fewer disciplinary hearings as a result of the bill allowing pharmacists to sell nonprescription syringes and needles without committing a criminal offense. In addition, workload to the Division of Insurance in DORA will increase to monitor and enforce insurance carrier payments to hospitals related to opiate antagonists to covered individuals upon discharge. The fiscal note assumes that any change in workload will be minimal and no change in appropriations is required.

**TABOR refunds.** Under the March 2020 LCS Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2020-21 or FY 2021-22, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

## Local Government

Starting in FY 2020-21, local government expenditures will increase if locally run hospitals choose to operate a clean syringe program. The impact will vary by county.

## Technical Note

The bill specifies the effective date for Section 10 of the bill; however, the fiscal note assumes that this effective date applies to Section 9.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. Section 9 of the bill takes effect if Senate Bill 20-007 becomes law. Section 2 of the bill only becomes effective if Senate Bill 20-007 does not become law.

## State Appropriations

For FY 2020-21, the bill requires a General Fund appropriation of \$250,000 to the Harm Reduction Grant Program Cash Fund within the Department of Public Health and Environment, assuming the General Assembly continues the FY 2019-20 appropriation of \$1.8 million to the fund in the FY 2020-21 Long Bill.

**State and Local Government Contacts**

Counties  
Judicial  
Personnel  
Public Health and Environment  
Regulatory Agencies

Health Care Policy and Financing  
Information Technology