

CHAPTER 76

CRIMINAL LAW AND PROCEDURE

SENATE BILL 15-116

BY SENATOR(S) Steadman, Aguilar, Baumgardner, Carroll, Cooke, Crowder, Garcia, Grantham, Guzman, Heath, Hill, Hodge, Jahn, Johnston, Jones, Kefalas, Kerr, Marble, Martinez Humenik, Merrifield, Neville T., Newell, Roberts, Todd, Ulibarri, Woods, Cadman;
 also REPRESENTATIVE(S) Garnett, Court, Duran, Esgar, Fields, Ginal, Lontine, Mitsch Bush, Moreno, Pettersen, Primavera, Rosenthal, Ryden, Singer, Williams, Young.

AN ACT

CONCERNING NEEDLE-STICK PREVENTION.

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

SECTION 1. In Colorado Revised Statutes, 18-18-428, **amend** (1) as follows:

18-18-428. Possession of drug paraphernalia - penalty. (1) (a) Except as described in section 18-1-711 AND PARAGRAPH (b) OF THIS SUBSECTION (1), a person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of this state.

(b) (I) PRIOR TO SEARCHING A PERSON, A PERSON'S PREMISES, OR A PERSON'S VEHICLE, A PEACE OFFICER MAY ASK THE PERSON WHETHER THE PERSON IS IN POSSESSION OF A HYPODERMIC NEEDLE OR SYRINGE THAT MAY CUT OR PUNCTURE THE OFFICER OR WHETHER SUCH A HYPODERMIC NEEDLE OR SYRINGE IS ON THE PREMISES OR IN THE VEHICLE TO BE SEARCHED. IF A HYPODERMIC NEEDLE OR SYRINGE IS ON THE PERSON, ON THE PERSON'S PREMISES, OR IN THE PERSON'S VEHICLE AND THE PERSON, EITHER IN RESPONSE TO THE OFFICER'S QUESTION OR VOLUNTARILY, ALERTS THE OFFICER OF THAT FACT PRIOR TO THE SEARCH, ASSESSMENT, OR TREATMENT, THE PEACE OFFICER SHALL NOT ARREST OR CITE THE PERSON PURSUANT TO THIS SECTION FOR THE HYPODERMIC NEEDLE OR SYRINGE OR SECTION 18-18-403.5 FOR ANY MINUSCULE, RESIDUAL CONTROLLED SUBSTANCE THAT MAY BE PRESENT IN A USED HYPODERMIC NEEDLE OR SYRINGE, AND THE DISTRICT ATTORNEY SHALL NOT CHARGE OR PROSECUTE THE PERSON PURSUANT TO THIS SECTION FOR THE HYPODERMIC NEEDLE OR SYRINGE OR SECTION 18-18-403.5

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

FOR ANY MINUSCULE, RESIDUAL CONTROLLED SUBSTANCE THAT MAY BE PRESENT IN A USED HYPODERMIC NEEDLE OR SYRINGE. THE CIRCUMSTANCES DESCRIBED IN THIS PARAGRAPH (b) MAY BE USED AS A FACTOR IN A PROBABLE CAUSE OR REASONABLE SUSPICION DETERMINATION OF ANY CRIMINAL OFFENSE IF THE ORIGINAL STOP OR SEARCH WAS LAWFUL.

(II) PRIOR TO ASSESSING OR TREATING A PERSON, AN EMERGENCY MEDICAL TECHNICIAN OR OTHER FIRST RESPONDER MAY ASK THE PERSON WHETHER THE PERSON IS IN POSSESSION OF A HYPODERMIC NEEDLE OR SYRINGE THAT MAY CUT OR PUNCTURE THE TECHNICIAN OR FIRST RESPONDER. IF A HYPODERMIC NEEDLE OR SYRINGE IS ON THE PERSON, AND THE PERSON, EITHER IN RESPONSE TO THE QUESTION OR VOLUNTARILY, ALERTS THE TECHNICIAN OR FIRST RESPONDER OF THAT FACT, A PEACE OFFICER SHALL NOT ARREST OR CITE THE PERSON PURSUANT TO THIS SECTION FOR THE HYPODERMIC NEEDLE OR SYRINGE OR SECTION 18-18-403.5 FOR ANY MINUSCULE, RESIDUAL CONTROLLED SUBSTANCE THAT MAY BE PRESENT IN A USED HYPODERMIC NEEDLE OR SYRINGE, AND THE DISTRICT ATTORNEY SHALL NOT CHARGE OR PROSECUTE THE PERSON PURSUANT TO THIS SECTION FOR THE HYPODERMIC NEEDLE OR SYRINGE OR SECTION 18-18-403.5 FOR ANY MINUSCULE, RESIDUAL CONTROLLED SUBSTANCE THAT MAY BE PRESENT IN A USED HYPODERMIC NEEDLE OR SYRINGE.

SECTION 2. In Colorado Revised Statutes, 18-18-403.5, **amend** (1); and **add** (3) as follows:

18-18-403.5. Unlawful possession of a controlled substance. (1) Except as authorized by part 1 or 3 of article 42.5 of title 12, C.R.S., part 2 of article 80 of title 27, C.R.S., section 18-1-711, SECTION 18-18-428 (1) (b), or part 2 or 3 of this article, it is unlawful for a person knowingly to possess a controlled substance.

(3) IF THE CIRCUMSTANCES DESCRIBED IN SECTION 18-18-428 (1) (b) OCCUR, THE PEACE OFFICER SHALL NOT ARREST THE PERSON PURSUANT TO THIS SECTION FOR ANY MINUSCULE, RESIDUAL CONTROLLED SUBSTANCE THAT MAY BE PRESENT IN THE USED HYPODERMIC NEEDLE OR SYRINGE, AND THE DISTRICT ATTORNEY SHALL NOT CHARGE OR PROSECUTE THE PERSON PURSUANT TO THIS SECTION FOR ANY MINUSCULE, RESIDUAL CONTROLLED SUBSTANCE THAT MAY BE PRESENT IN A USED HYPODERMIC NEEDLE OR SYRINGE. THE CIRCUMSTANCES DESCRIBED IN SECTION 18-18-428 (1) (b) MAY BE USED AS A FACTOR IN A PROBABLE CAUSE OR REASONABLE SUSPICION DETERMINATION OF ANY CRIMINAL OFFENSE IF THE ORIGINAL STOP OR SEARCH WAS LAWFUL.

SECTION 3. In Colorado Revised Statutes, 25-1-520, **amend** (2) (e) and (2) (f); and **add** (2) (g) as follows:

25-1-520. Clean syringe exchange programs - approval - reporting requirements. (2) Each proposed clean syringe exchange program shall, at a minimum, have the ability to:

(e) Plan and implement the clean syringe exchange program with the clear objective of reducing the transmission of blood-borne diseases within a specific geographic area; ~~and~~

(f) Develop a timeline for the proposed program and for the development of policies and procedures; AND

(g) DEVELOP AN EDUCATION PROGRAM REGARDING THE LEGAL RIGHTS UNDER THIS SECTION AND SECTION 18-18-428 (1) (b), C.R.S., THAT ENCOURAGES PARTICIPANTS TO ALWAYS DISCLOSE THEIR POSSESSION OF HYPODERMIC NEEDLES OR SYRINGES TO PEACE OFFICERS OR EMERGENCY MEDICAL TECHNICIANS OR OTHER FIRST RESPONDERS PRIOR TO A SEARCH.

SECTION 4. Effective date - applicability. This act takes effect July 1, 2015, and applies to offenses committed on or after said date.

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

Approved: April 3, 2015