

SB040 L.002

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on State, Veterans, & Military Affairs.

SB18-040 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. Legislative declaration. (1) The general
4 assembly hereby finds and declares that:

5 (a) The opioid epidemic in Colorado is part of the national public
6 health emergency being experienced across the United States;

7 (b) The use of illicit drugs is damaging to individual and
8 community health and annually creates an economic burden of tens of
9 billions of dollars nationally;

10 (c) In Colorado, a fatal overdose occurs every nine hours and
11 thirty-six minutes, resulting in nine hundred and twelve overdose deaths
12 in the state in 2016;

13 (d) Overdose is the leading cause of death for Americans under
14 the age of fifty;

15 (e) Nationwide, deaths from fentanyl-related overdoses increased
16 five hundred and forty percent over the last three years;

17 (f) One hundred and two overdose prevention sites located in sixty
18 three cities and ten countries report significant decreases in syringes left
19 in parks, alleys, and public restrooms, zero deaths on the premises of the
20 overdose prevention site, and reduced acquisition of communicable
21 diseases and infections;

22 (g) No state taxpayer dollars will subsidize the overdose
23 prevention site established in this act;

24 (h) This act recognizes the importance of local control when
25 combating the opioid epidemic and authorizes local health departments
26 to determine whether their community would benefit from an overdose
27 prevention site in order to:

28 (I) Increase public safety and access to drug treatment and
29 preventive health care;

30 (II) Reduce overdose death rates, public disorder, public injecting,
31 and HIV, Hepatitis C, and bacterial infections; and

32 (III) Promote proper syringe disposal;

33 (i) The general assembly does not endorse drug use, support the
34 legalization of any illicit drug, or promote an increase in community drug
35 use, initiation into injection drug use, or drug-related crime; and

36 (j) The intent of the general assembly is to keep people who are
37 struggling with substance use disorder alive and to increase their
38 opportunities to access referral to treatment.

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

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

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

9 **SECTION 3.** In Colorado Revised Statutes, add 25-1-521 as
10 follows:

11 **25-1-521. Overdose prevention site - approval - immunity -**
12 **reporting requirements - definitions - repeal.** (1) THERE IS HEREBY
13 ESTABLISHED A PROCESS FOR APPROVING AND ESTABLISHING AN
14 OVERDOSE PREVENTION SITE IN THE STATE AS A PART OF AN APPROVED
15 CLEAN SYRINGE EXCHANGE PROGRAM ESTABLISHED AND OPERATING
16 PURSUANT TO SECTION 25-1-520.

17 (2) NOT LATER THAN ONE MONTH AFTER THE EFFECTIVE DATE OF
18 THIS SECTION, THE DEPARTMENT SHALL CERTIFY WHICH COUNTIES IN
19 COLORADO ARE IN THE TOP TWENTY-FIVE PERCENT OF THE STATE FOR THE
20 AVERAGE NUMBER OF HEROIN OVERDOSE DEATHS PER YEAR OVER THE
21 MOST RECENT THREE YEARS OF AVAILABLE DATA. A LOCAL PUBLIC
22 HEALTH AGENCY THAT REPRESENTS A CERTIFIED COUNTY MAY SEEK
23 APPROVAL FROM THE LOCAL BOARD TO OPERATE AN OVERDOSE
24 PREVENTION SITE BY FOLLOWING THE PROCEDURE IN SUBSECTION (3) OF
25 THIS SECTION. THE LOCAL PUBLIC HEALTH AGENCY MAY CONTRACT WITH
26 A NONPROFIT ORGANIZATION OPERATING ITS CLEAN SYRINGE EXCHANGE
27 PROGRAM TO OPERATE AN APPROVED OVERDOSE PREVENTION SITE.

28 (3) A LOCAL PUBLIC HEALTH AGENCY THAT SEEKS TO OPERATE AN
29 OVERDOSE PREVENTION SITE MUST FIRST OBTAIN PRELIMINARY APPROVAL
30 FROM THE LOCAL BOARD. BEFORE PRELIMINARILY APPROVING OR
31 DISAPPROVING AN OVERDOSE PREVENTION SITE, THE LOCAL BOARD SHALL
32 CONSULT WITH THE LOCAL PUBLIC HEALTH AGENCY AND INTERESTED
33 STAKEHOLDERS CONCERNING THE ESTABLISHMENT OF THE OVERDOSE
34 PREVENTION SITE. INTERESTED STAKEHOLDERS MUST INCLUDE LOCAL LAW
35 ENFORCEMENT AGENCIES, DISTRICT ATTORNEYS, SUBSTANCE USE
36 DISORDER TREATMENT PROVIDERS, PERSONS WITH A SUBSTANCE USE
37 DISORDER IN REMISSION, NONPROFIT ORGANIZATIONS, HEPATITIS C AND
38 HIV ADVOCACY ORGANIZATIONS, BUSINESS REPRESENTATIVES, AND
39 MEMBERS OF THE COMMUNITY.

40 (4) THE LOCAL BOARD MAY PRELIMINARILY APPROVE OR
41 DISAPPROVE THE PROPOSED OVERDOSE PREVENTION SITE BASED ON THE
42 RESULTS OF THE MEETINGS HELD PURSUANT TO SUBSECTION (3) OF THIS
43 SECTION.

1 (5) IF A LOCAL BOARD PRELIMINARILY APPROVES THE OVERDOSE
2 PREVENTION SITE, THE BOARD SHALL NOTIFY THE GOVERNING BODY OF
3 THE CITY WHERE THE PROPOSED OVERDOSE PREVENTION SITE WOULD
4 OPERATE. THE GOVERNING BODY MAY APPROVE OR REJECT THE SITE;
5 EXCEPT THAT, IF THE GOVERNING BODY FAILS TO REJECT THE SITE WITHIN
6 THIRTY DAYS OF NOTIFICATION, THE SITE IS CONSIDERED ACCEPTED.

7 (6) ONLY THE FIRST OVERDOSE PREVENTION SITE THAT IS
8 CERTIFIED BY THE DEPARTMENT, RECEIVES LOCAL BOARD APPROVAL, AND
9 LOCAL GOVERNING BODY APPROVAL MAY OPERATE. ONLY ONE OVERDOSE
10 PREVENTION SITE MAY OPERATE IN THE STATE AT ANY GIVEN TIME.

11 (7) THE LOCAL HEALTH AGENCY THAT OPERATES THE OVERDOSE
12 PREVENTION SITE PURSUANT TO THIS SECTION SHALL CONTINUE TO HOLD
13 STAKEHOLDER MEETINGS WITH THE STAKEHOLDERS LISTED IN SUBSECTION
14 (3) OF THIS SECTION THROUGHOUT THE DURATION OF THE OPERATION OF
15 THE OVERDOSE PREVENTION SITE.

16 (8) ACTIVITIES OCCURRING WITHIN AN OVERDOSE PREVENTION
17 SITE OPERATING PURSUANT TO THIS SECTION DO NOT CONSTITUTE A PUBLIC
18 NUISANCE FOR PURPOSES OF SECTIONS 16-13-303 TO 16-13-306.

19 (9) NO LATER THAN THREE YEARS AFTER THE OVERDOSE
20 PREVENTION SITE IS APPROVED PURSUANT TO SUBSECTION (5) OF THIS
21 SECTION, THE LOCAL HEALTH AGENCY OR NONPROFIT ORGANIZATION THAT
22 OPERATES THE OVERDOSE PREVENTION SITE SHALL PROVIDE A REPORT TO
23 THE HOUSE OF REPRESENTATIVES COMMITTEE ON HEALTH, INSURANCE,
24 AND ENVIRONMENT AND THE SENATE COMMITTEE ON HEALTH AND HUMAN
25 SERVICES, OR THEIR SUCCESSOR COMMITTEES, THAT INCLUDES:

26 (a) THE NUMBER OF SITE PARTICIPANTS;
27 (b) AGGREGATE INFORMATION REGARDING THE CHARACTERISTICS
28 OF SITE PARTICIPANTS;
29 (c) THE NUMBER OF SYRINGES DISTRIBUTED FOR USE AT THE
30 OVERDOSE PREVENTION SITE;
31 (d) THE NUMBER OF OVERDOSES EXPERIENCED AND THE NUMBER
32 OF OVERDOSES REVERSED AT THE OVERDOSE PREVENTION SITE; AND
33 (e) THE NUMBER OF INDIVIDUALS DIRECTLY AND FORMALLY
34 REFERRED TO OTHER SERVICES AND THE TYPE OF SERVICE.

35 (10) IF THE LOCAL BOARD APPROVES AN OVERDOSE PREVENTION
36 SITE THAT IS OPERATED THROUGH A CONTRACT WITH A NONPROFIT
37 ORGANIZATION, THE CONTRACT SHALL BE SUBJECT TO ANNUAL REVIEW
38 AND SHALL BE RENEWED ONLY IF THE LOCAL BOARD APPROVES THE
39 CONTRACT AFTER CONSULTATION WITH THE PUBLIC HEALTH AGENCY AND
40 INTERESTED STAKEHOLDERS AS DESCRIBED IN SUBSECTION (3) OF THIS
41 SECTION.

42 (11) AN OVERDOSE PREVENTION SITE OPERATED PURSUANT TO
43 THIS SECTION MUST MAINTAIN COMPLIANCE WITH SECTION 25-1-520 (2).

1 (12) HEALTH PROFESSIONALS AND TRAINED STAFF WORKING AT AN
2 OVERDOSE PREVENTION SITE SHALL PROVIDE OVERDOSE PREVENTION
3 SERVICES AND REFERRALS TO SUBSTANCE USE DISORDER TREATMENT TO
4 EACH PARTICIPANT SEEKING SUCH INFORMATION.

5 (13) AS USED IN THIS SECTION:

6 (a) "LOCAL BOARD" MEANS THE COUNTY BOARD OF HEALTH OR
7 THE DISTRICT BOARD OF HEALTH FOR THE LOCAL PUBLIC HEALTH AGENCY.

8 (b) "LOCAL PUBLIC HEALTH AGENCY" MEANS A PUBLIC HEALTH
9 AGENCY THAT HAS BEEN APPROVED BY THE AGENCY'S LOCAL BOARD TO
10 OPERATE A CLEAN SYRINGE EXCHANGE PROGRAM THROUGH THE PROCESS
11 SPECIFIED IN SECTION 25-1-520.

12 (c) "OVERDOSE PREVENTION SITE" MEANS A SITE:

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

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

19 (14) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

20 **SECTION 4.** In Colorado Revised Statutes, 25-1-508, add (5)(m)
21 as follows:

22 **25-1-508. County or district boards of public health - public**
23 **health directors - repeal.** (5) In addition to all other powers and duties
24 conferred and imposed upon a county board of health or a district board
25 of health by the provisions of this subpart 3, a county board of health or
26 a district board of health shall have and exercise the following specific
27 powers and duties:

28 (m) (I) TO APPROVE, AS PROVIDED FOR IN SECTION 25-1-521, AN
29 OVERDOSE PREVENTION SITE PROPOSED BY AN AGENCY. A COUNTY BOARD
30 OF HEALTH OR DISTRICT BOARD OF HEALTH IS NOT REQUIRED TO APPROVE
31 A PROPOSED SITE.

32 (II) THIS SUBSECTION (5)(m) IS REPEALED, EFFECTIVE SEPTEMBER
33 1, 2022.

34 **SECTION 5.** In Colorado Revised Statutes, add 16-11.3-103.7
35 as follows:

36 **16-11.3-103.7. Study of penalties related to opioids and**
37 **synthetic opioids - repeal.** (1) AS SOON AS PRACTICABLE, THE
38 COMMISSION SHALL STUDY CRIMINAL PENALTIES RELATED TO OPIOIDS AND
39 SYNTHETIC OPIOIDS, AS SPECIFIED IN SECTION 18-18-204 (2), TO
40 DETERMINE:

41 (a) THE EFFICACY OF CRIMINAL PENALTIES RELATED TO THE
42 UNLAWFUL MANUFACTURING, DISTRIBUTION, DISPENSING, AND SALE OF
43 CARFENTANYL, FENTANYL, AND OTHER SYNTHETIC OPIOIDS; AND

1 (b) THE EXTENT TO WHICH CURRENT CRIMINAL PENALTIES FOR THE
2 UNLAWFUL USE AND POSSESSION OF OPIOIDS AND SYNTHETIC OPIOIDS
3 IMPACT THE ABILITY OF A PERSON WITH A SUBSTANCE USE DISORDER TO
4 SEEK TREATMENT.

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

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

9 **SECTION 6. Effective date - applicability.** This act takes effect
10 July 1, 2018, and applies to conduct occurring on or after said date.

11 **SECTION 7. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety."

14 Page 1, strike lines 105 through 107 and substitute "A PROCESS FOR THE
15 APPROVAL OF AN OVERDOSE PREVENTION SITE IN THE STATE, AND
16 REQUIRING THE".

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