



HARM REDUCTION AND OVERDOSE PREVENTION Fact Sheet

Legality of Syringe Access Programs in South Carolina

Background

Drug overdose is a nationwide epidemic that claimed the lives of over 100,000 people in the United States in the past year.¹ Alongside the surge in overdose deaths, infections related to lack of access to new syringes and subsequent syringe sharing among people who inject drugs (PWID) have increased. A number of states including Indiana², Massachusetts³, Washington⁴ and West Virginia⁵ have experienced recent injection-related HIV outbreaks. Hepatitis C infections, which overwhelmingly result from use of shared syringes, have increased every year for over a decade,⁶ and tripled from 2009 to 2018.⁷ Injection-related endocarditis, which often results in both long-term health problems for the individual as well as high costs to the health-care system,⁸ has been increasing nationwide.⁹

Injection drug use is not, in and of itself, a risk factor for HIV, hepatitis C, infective endocarditis, or other blood-borne illness. Rather, the increased risk of bloodborne disease infection associated with injection drug use comes largely from the sharing or reuse of injection equipment. Therefore, increasing access to sterile syringes is an extremely effective strategy for reducing the spread of bloodborne disease among PWID, their partners, and their families. Indeed, in 2000, then US surgeon general David Satcher released an extensive report concluding that syringe access programs (SAPs) reduce HIV incidence without encouraging the use of illegal drugs,¹⁰ a finding that numerous studies from the United States and other countries have since replicated.¹¹ As the Centers for Disease Control and Prevention notes, “Nearly thirty years of research shows that comprehensive S[A]Ps are safe, effective, and cost-saving, do not increase illegal drug use or crime, and play an important role in reducing the transmission of viral hepatitis, HIV and other infections.”¹²

Unfortunately, paraphernalia laws in many states make it difficult for syringe access programs to operate, although this is not the case everywhere.¹³ This brief factsheet discusses the legality of SAPs in South Carolina. It concludes that South Carolina law does not prohibit the distribution of syringes and other injection equipment from SAPs. It further concludes that the possession and distribution of syringes and other injection equipment is not prohibited in the state.

Summary of Relevant South Carolina Law

States do not generally ban syringe access programs directly. Rather, provisions of otherwise existing paraphernalia laws, which often prohibit the distribution and possession of many types of paraphernalia, often

render them illegal unless the state has acted to permit their operation. Therefore, determining the legality of syringe access programs requires an examination of the specific contours of state law.

Like many states, South Carolina prohibits the sale, manufacture, delivery, possession, and possession with intent to deliver paraphernalia.¹⁴ Unlike many states, however, violation of this statute is not a crime but rather is punishable by the imposition of a civil fine.¹⁵ Further, the definition of “paraphernalia” in South Carolina does not include syringes or other objects used for injecting drugs.

Paraphernalia is defined in the South Carolina code as “any instrument, device, article, or contrivance used, designed for use, or intended for use in ingesting, smoking, administering, manufacturing, or preparing a controlled substance.”¹⁶ The statute lists numerous examples of paraphernalia, the vast majority of which are related to smoking or inhaling cannabis, including water pipes, roach clips, chamber pipes, bongos, and ice pipes.¹⁷ Indeed, the only instruments that do not relate to cannabis are “cocaine spoons and vials.”¹⁸ The definition of “paraphernalia,” as well as the examples listed in the statute, make it clear that neither injection equipment generally nor syringes specifically are “paraphernalia” under the law.

Further, syringes distributed from SAPs are not used in “ingesting, smoking, administering, manufacturing, or preparing” drugs. While they might be thought to be used in “administering” drugs as that term is commonly used, “administering” is defined in the Code as “the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (a) a practitioner (or, in his presence, by his authorized agent); or (b) the patient or research subject at the direction and in the presence of the practitioner.”¹⁹

“Practitioner” is defined in the Code as “a physician, dentist, veterinarian, podiatrist, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this State.”²⁰ It is unlikely that any employees or volunteers of an SAP would be “practitioners” under South Carolina law. Indeed, the work of SAPs is vital because they reach individuals who do not have access to syringes from a practitioner.

Conclusion

While the possession and distribution of paraphernalia is punishable by a civil fine in South Carolina, syringes and other injection equipment do not appear to fall under the definition of “paraphernalia” under the law. We therefore conclude that their possession and distribution, as well as the operation of SAPs, is likely not prohibited in the state.²¹

SUPPORTERS

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- ⁷ Ryerson AB, Schillie S, Barker LK, Kupronis BA, Wester C. Vital Signs: Newly Reported Acute and Chronic Hepatitis C Cases - United States, 2009-2018. *MMWR Morb Mortal Wkly Rep*. 2020;69(14):399-404.
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- ⁹ Wurcel AG, Anderson JE, Chui KK, et al. Increasing infectious endocarditis admissions among young people who inject drugs. *Open Forum Infect Dis*. 2016;3(3):ofw157.
- ¹⁰ Satcher D. Evidence-based findings on the efficacy of syringe exchange programs: an analysis of the scientific research completed since April 1998. 2000. Available at: <https://harmreduction.org/wp-content/uploads/2012/01/EvidenceBasedFindingsOnEfficacyofSEPs.pdf>.
- ¹¹ Aspinall EJ, Nambiar D, Goldberg DJ, et al. Are needle and syringe programmes associated with a reduction in HIV transmission among people who inject drugs: a systematic review and meta-analysis. *Int J Epidemiol*. 2014;43(1):235–248; Platt L, Minozzi S, Reed J, et al. Needle and syringe programmes and opioid substitution therapy for preventing HCV transmission among people who inject drugs: findings from a Cochrane Review and meta-analysis. *Addiction*. 2018;113(3):545–563.
- ¹² Centers for Disease Control and Prevention, Syringe Services Programs (SSPs). <https://www.cdc.gov/ssp/index.html>
- ¹³ Davis CS, Carr DH, Samuels EA. Paraphernalia Laws, Criminalizing Possession and Distribution of Items Used to Consume Illicit Drugs, and Injection-Related Harm. *Am J Public Health*. 2019;109(11):1564-1567.
- ¹⁴ S.C. Code of Laws § 44-53-391
- ¹⁵ The fine is “not more than five hundred dollars” except for corporations, which are subject to a fine of “not more than fifty thousand dollars.” S.C. Code of Laws § 44-53-391(c).
- ¹⁶ S.C. Code of Laws § 44-53-110(33).
- ¹⁷ Id. This is because, like many state paraphernalia laws, the South Carolina law is based on a model law created by the Drug Enforcement Administration in the late 1970’s, which was primarily aimed at “Head shops” that sold such cannabis-related paraphernalia. See generally Healy K, National Institute of Justice, *State and Local Experience with Drug Paraphernalia Laws* (1988), available at <https://www.ncjrs.gov/pdffiles1/Digitization/109977NCJRS.pdf>.
- ¹⁸ S.C. Code of Laws § 44-53-110(33)(g).
- ¹⁹ S.C. Code of Laws § 44-53-110(1).
- ²⁰ S.C. Code of Laws § 44-53-110(36).
- ²¹ Indeed, several organizations offer syringe access programs in South Carolina. See Challenges Inc., *Syringe Services*, <https://challengesinc.org/syringe-service> (Greenville area); Charleston Wellness Initiative, *Our Services*, <https://www.charlestonwellnessinitiative.org/our-services>.



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