

<b>Date:</b> February 13, 2018	<b>POLICY ANALYSIS</b> PREPARED FOR THE BOARD OF DIRECTORS	
<b>Staff:</b> Alyson Williams		

## SB18-040 SUBSTANCE USE DISORDER HARM REDUCTION: Concerning Measures to Address the Opioid Crisis in Colorado

### Details

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<b>Bill Sponsors:</b>	Senate – <i>Lambert (R) and Jahn (D)</i> , Aguilar (D), Moreno (D), Priola (R), Tate (R) House – <i>Singer (D)</i> , Kennedy (D), Pettersen (D)
<b>Committee:</b>	Senate Committee on State, Veterans, & Military Affairs
<b>Bill History:</b>	1/10/2018-Introduced in Senate-Assigned to State, Veterans, & Military Affairs
<b>Next Action:</b>	2/14/2018-Hearing in Senate Committee on State, Veterans, & Military Affairs

### Bill Summary

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This bill allows hospitals to operate clean syringe exchange programs and provides civil immunity for an individual that provides a clean syringe at such a site. It also creates a pilot program for a supervised injection facility in the City and County of Denver and establishes civil and criminal immunity for the employees, volunteers, and participants. The bill allows for school districts and nonpublic school entities to develop a policy regarding obtaining a supply of opioid antagonists, which must require education and training for school staff to use the opioid antagonist. Immunity from civil damages and criminal penalties is provided for employees acting in accordance with the adopted policy. The bill directs the Commission on Criminal and Juvenile Justice to study penalties related to opioids including their efficacy and impact on those seeking treatment.

### Background

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#### Syringe Access Program

The Heroin Response Work Group from the Colorado Consortium for Prescription Drug Abuse Prevention released a report in April 2017 that detailed the effect of injection drug use (IDU) on Colorado.<sup>1</sup> IDU is associated with acquiring blood borne pathogens like HIV, Hepatitis C, and Hepatitis B through sharing of needles and other equipment. New cases of Hepatitis C in Colorado have increased 80 percent between 2011 and 2015. Although the data cannot directly attribute the increase to IDU, it is the most common method for infection.

The Northern Colorado AIDS Project, a part of the Colorado Health Network, in Fort Collins, houses the only syringe access program in the region. Colorado law currently allows local jurisdictions to approve operations of syringe exchange programs.<sup>2</sup>

#### Supervised Injection Facility (SIF)

Supervised injection facilities are settings where people can inject pre-obtained drugs under clinical supervision and get access to health care, mental health, and referrals to appropriate community services or treatment. The Harm Reduction Coalition gathered information from stakeholders that operate in other countries about supervised injection facilities in order to inform American policymakers on the issue.<sup>3</sup> The

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<sup>1</sup> Heroin Response Work Group, Colorado Consortium for Prescription Drug Abuse Prevention (Apr 2017). *Heroin in Colorado: Preliminary Assessment*. Retrieved from [http://leg.colorado.gov/sites/default/files/heroin\\_in\\_colorado\\_final\\_4.13.17.pdf](http://leg.colorado.gov/sites/default/files/heroin_in_colorado_final_4.13.17.pdf) . Accessed on Dec 6, 2017.

<sup>2</sup> C.R. S. §25-1-520

<sup>3</sup> Harm Reduction Coalition (2016). *Report on Supervised Injection Facilities*. Retrieved from <http://harmreduction.org/blog/sif-report/> . Accessed on Dec 6, 2017.

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stakeholders emphasized that participants in the program gain access to other medical and social services as well as access to drug treatment. Currently, no sanctioned SIF is operating in the United States; however, many localities are investigating the possibility. Research demonstrates that for every dollar spent on a SIF program could result in \$2.33 savings.<sup>4</sup>

### Opioid Antagonist Policy for Schools

In 2015 Larimer County had the 12<sup>th</sup> highest opioid-related death rate in the state, at 6.5 per 100,000 it was higher than the overall state rate.<sup>5</sup> Naloxone are commonly used opioid antagonists utilized to reverse an opioid overdose. There are three methods to administer one of these drugs: injectable, auto-injectable, and nasal spray. The auto-injectable and nasal spray can be used by the lay public. As of summer 2017, 400 pharmacies stock and 140 law enforcement departments carry naloxone in Colorado.<sup>6</sup> In 2015 the National Association of School Nurses took the position that an overdose policy and naloxone deployment should be incorporated into a school's emergency response plan.<sup>7</sup>

### Criminal Penalty Study

The original iteration of this bill in the opioid study committee removed synthetic opiates from the list of schedule II drugs and created a new felony for the distribution, manufacturing, dispensing, or sale of synthetic opiates. Creating a study in lieu of that action would allow the legislature to determine the current penalties' efficacy. A recent study demonstrated that only 4.6 percent of individuals referred by the criminal justice system (i.e. prison, probation, diversionary programs, courts, or DUI program) to opioid use disorder treatment received methadone or buprenorphine.<sup>8</sup> Doing a study regarding the interaction between treatment and the criminal justice system in Colorado would be a novel approach to informing future policies in the state.

### This Legislation

This bill allows for hospitals licensed by CDPHE to develop and establish a syringe access program. Hospital staff affiliated with the program are granted immunity from civil damages resulting from providing a clean syringe.

The supervised injection facility pilot program is established for the city and county of Denver for a single facility. The SIF can be operated by Denver Public Health or a nonprofit organization. The SIF must be approved by the Denver Board of Health after consultation with the Denver Public Health Agency and other interested stakeholders. The stakeholders that must be included are law enforcement, district attorneys, treatment providers, persons that have been diagnosed with a substance use disorder but are in recovery, nonprofit organizations, and advocacy organizations related to HIV and Hepatitis C, and members of the community. Furthermore, the SIF must be established alongside an operating syringe access program. Staff members and participants are granted immunity. The SIF does not constitute a public nuisance. By October 2021 the Denver Public Health Agency or the organization operating the SIF must provide a report to the relevant committees in the General Assembly. This report must include the number of program participants,

<sup>4</sup> Kral, A. H., Irwin, A., Jozaghi, E., & Bluthenthal, R. (2016). A Cost-Benefit Analysis of a Potential Supervised Injection Facility in San Francisco, California, USA. *Journal of Drug Issues*, 1(21). <http://journals.sagepub.com/doi/pdf/10.1177/0022042616679829>

<sup>5</sup> Colorado Department of Public Health and Environment (July 2017). *Larimer County Prescription Drug Profile*. Retrieved from [https://www.colorado.gov/pacific/sites/default/files/PW\\_ISVP\\_Larimer%20County%20Rx%20Drug%20Data%20Profile.pdf](https://www.colorado.gov/pacific/sites/default/files/PW_ISVP_Larimer%20County%20Rx%20Drug%20Data%20Profile.pdf).

<sup>6</sup> Colorado Office of Behavioral Health, prepared by Colorado Health Institute (July 28, 2018). *Needs Assessment for the SAMHSA State Targeted Response to the Opioid Crisis Grant*. Retrieved from [https://coag.gov/sites/default/files/content/uploads/oce/Substance\\_Abuse\\_SA/SATF-reports/11th\\_annual\\_substance\\_abuse\\_task\\_force\\_report\\_2016\\_final\\_2.pdf](https://coag.gov/sites/default/files/content/uploads/oce/Substance_Abuse_SA/SATF-reports/11th_annual_substance_abuse_task_force_report_2016_final_2.pdf)

<sup>7</sup> National Association of School Nurses (2017). *Naloxone Use in the School Setting: The Role of the School Nurse (Adopted June 2015)*. Retrieved from <https://schoolnursesnet.nasn.org/blogs/nasn-profile/2017/03/13/naloxone-use-in-the-school-setting-the-role-of-the-school-nurse>.

<sup>8</sup> Krawczyk, N., Picher, C.E., Feder, K.A., & Saloner, B. (Dec. 2017). Only One in Twenty Justice-Referred Adults in Specialty Treatment for Opioid Use Receive Methadone or Buprenorphine. *Health Affairs*. [HTTPS://DOI.ORG/10.1377/HLTHAFF.2017.0890](https://doi.org/10.1377/hlthaff.2017.0890)

characteristics of program participants, number of syringes distributed for use in SIF, number of overdoses, number of overdoses reversed, number of participants referred to other services, and the type of services referred to. If a nonprofit organization is operating the SIF their contract must be reviewed annually. The bill exempts employees and participants of SIFs from drug paraphernalia laws.

Employees or agents of schools are allowed to be prescribed and dispensed standing orders of opiate antagonists. Furthermore, the bill allows school districts or governing bodies of nonpublic schools to adopt a policy regarding maintaining a supply of opiate antagonists and allowing trained employees/agents of the school to administer opiate antagonists. This policy must include training and education about overdose risk factors, recognition and the proper steps to apply during an overdose. The bill provides immunity from civil and criminal penalties for the school employees if they act in accordance with the adopted policy.

Finally, the bill mandates that the Commission on Criminal and Juvenile Justice study the criminal penalties that are related to opioids and synthetic opioids. The report should strive to determine the efficacy of criminal penalties for the supply-side of synthetic opioids as well as the relationship between criminal penalties and the ability to seek substance use disorder treatment. There is no date mandated for the study to be conducted and completed.

### Reasons to Support

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Supporters assert that expanding the locations of syringe access programs can improve public safety and decrease the amount of discarded needles in the community. According to the Centers for Disease Control and Prevention (CDC) these programs increase entry into substance use disorder treatment.<sup>9</sup> Additionally, the CDC asserts that syringe access programs reduce overdose deaths, new HIV diagnoses among IDUs, and needlestick injuries by first responders. A SIF pilot program in Denver could help inform the future of harm reduction strategies in the state and the nation. Furthermore, foreign stakeholders have noted that other drug use, crime, and public nuisance do not increase around the facility after its establishment and in some cases decrease.<sup>10</sup> Supporters of placing naloxone in schools make the comparison that it is like having a defibrillator on a gym wall, it is a tool meant to save a life.

### Supporters

- ACLU of Colorado
- AspenPointe
- Colorado Association of Local Public Health Officials
- Colorado Consumer Health Initiative
- Colorado Health Partners
- Colorado Medical Society
- Colorado Providers Association
- Drug Policy Alliance
- Mental Health Colorado
- Public Health Nurses Association of Colorado

### Reasons to Oppose

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Some assert that syringe access programs condone drug use and misuse. Furthermore, opponents may claim that expanding the places that can administer syringe access programs will increase the necessity for law enforcement to police issues that they believe will develop due to the program. However, according to the CDC these claims are not substantiated. Others oppose the SIF because they see the facility as making it easier to conduct illegal behavior and enabling those with substance use disorders to continue negative behavior. Some say that allowing schools to have naloxone on the premises sends the wrong message to

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<sup>9</sup> Centers for Disease Control and Prevention (Aug. 2017). *Reducing Harm from Injection Drug Use and Opioid Use Disorder with Syringe Services Programs*. Retrieved from <https://www.cdc.gov/hiv/pdf/risk/cdchiv-fs-syringe-services.pdf>.

<sup>10</sup> Harm Reduction Coalition (2016). *Report on Supervised Injection Facilities*. Retrieved from <http://harmreduction.org/blog/sif-report/>. Accessed on Dec 6, 2017.

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kids, that they can take drugs because opioid antagonists are on hand to save them. Others assert that with naloxone at schools it is a crutch that will stop them from taking personal responsibility. Opponents may also cite the cost to the taxpayers to purchase naloxone.

### **Opponents**

- There is known opposition to sections of this bill; however, no organizations have publicly posted their opposition.

### **About this Analysis**

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This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. For more information about this summary or the Health District, please contact Alyson Williams, Policy Coordinator, at (970) 224-5209, or e-mail at [awilliams@healthdistrict.org](mailto:awilliams@healthdistrict.org).