

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 307

FINAL READING

Introduced by Hunt, 8; Fredrickson, 20; Dungan, 26; McDonnell, 5;
Aguilar, 35.

Read first time January 11, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to public health; to amend sections 28-441 and
2 28-442, Revised Statutes Cumulative Supplement, 2022; to provide for
3 syringe services programs; to provide for exceptions to penalties
4 under the Uniform Controlled Substances Act relating to drug
5 paraphernalia; and to repeal the original sections.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) The governing body of a municipality or county may
2 authorize by ordinance or resolution a syringe services program to
3 operate within the bounds of such municipality or county. A county
4 ordinance or resolution shall not be effective within the corporate
5 boundaries of any incorporated municipality located in whole or in part
6 within the county.

7 (2) A syringe services program authorized by this section shall, at
8 a minimum, offer or arrange for the provision of the following:

9 (a) A needs assessment for program participants;

10 (b) Access to sterile syringes, needles, and other items or
11 equipment used to reduce the risk of disease transmission or other harm;

12 (c) Safe disposal of used syringes, needles, and other items or
13 equipment;

14 (d) Referral information and educational materials regarding
15 substance use disorder prevention and treatment;

16 (e) Information to reduce injection and overdose risks;

17 (f) Naloxone or information about where naloxone can be obtained at
18 low or no cost; and

19 (g) Referral information and educational materials regarding social
20 services, mental health care, and other health care services.

21 (3) A syringe services program authorized by this section shall not
22 be located within five hundred feet of any:

23 (a) Public or private: Child care facility; elementary, vocational,
24 or secondary school; or youth center; or

25 (b) Public: Community recreation center, library, or swimming pool.

26 Sec. 2. Section 28-441, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

28 28-441 (1) It shall be unlawful for any person to use, or to possess
29 with intent to use, drug paraphernalia to manufacture, inject, ingest,
30 inhale, or otherwise introduce into the human body a controlled substance
31 in violation of sections 28-101, 28-431, and 28-439 to 28-444.

1 (2) Any person who violates this section shall be guilty of an
2 infraction.

3 (3) A person shall not be in violation of this section if section
4 28-472 or 28-1701 applies.

5 (4) This section does not apply to:

6 (a) The staff of a syringe services program authorized by section 1
7 of this act when such staff are engaged in the provision, retrieval, or
8 disposal of syringes, needles, or other items or equipment in connection
9 with the program; or

10 (b) A participant of such a program when the participant is engaged
11 in the retrieval or disposal of syringes, needles, or other items or
12 equipment at or within the immediate vicinity of the program site or
13 facility.

14 Sec. 3. Section 28-442, Revised Statutes Cumulative Supplement,
15 2022, is amended to read:

16 28-442 (1) It shall be unlawful for any person to deliver, possess
17 with intent to deliver, or manufacture with intent to deliver, drug
18 paraphernalia, knowing, or under circumstances in which one reasonably
19 should know, that it will be used to manufacture, inject, ingest, or
20 inhale or otherwise be used to introduce into the human body a controlled
21 substance in violation of sections 28-101, 28-431, and 28-439 to 28-444.

22 (2) This section shall not apply to:

23 (a) Pharmacies, pharmacists, pharmacist interns, pharmacy
24 technicians, and pharmacy clerks who sell hypodermic syringes or needles
25 for the prevention of the spread of infectious diseases; -

26 (b) The staff of a syringe services program authorized by section 1
27 of this act when such staff are engaged in the provision, retrieval, or
28 disposal of syringes, needles, or other items or equipment in connection
29 with the program; or

30 (c) A participant of such a program when the participant is engaged
31 in the retrieval or disposal of syringes, needles, or other items or

1 equipment at or within the immediate vicinity of the program site or
2 facility.

3 (3) Any person who violates this section shall be guilty of a Class
4 II misdemeanor.

5 Sec. 4. Original sections 28-441 and 28-442, Revised Statutes
6 Cumulative Supplement, 2022, are repealed.