

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 15-0767.01 Michael Dohr x4347

SENATE BILL 15-116

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

Garnett,

Senate Committees
Judiciary

House Committees
Public Health Care & Human Services

A BILL FOR AN ACT

101 **CONCERNING NEEDLE-STICK PREVENTION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill creates an exception to arrest and filing charges for the crime of possession of drug paraphernalia if the person prior to being searched by a peace officer informs the peace officer that he or she has a needle, syringe, or other sharp object on his or her person or in his or her vehicle or home that is subject to a search. The exception to arrest and filing charges also applies to the crime of possession of a controlled substance as it relates to any residual controlled substance that may be found in a used needle, syringe, or other sharp object.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
March 12, 2015

HOUSE
Amended 2nd Reading
March 11, 2015

SENATE
3rd Reading Unamended
February 18, 2015

SENATE
Amended 2nd Reading
February 17, 2015

The bill directs clean syringe exchange programs to develop an education program regarding the legal rights under that program and the immunity provisions created in this bill.

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

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

4 **18-18-428. Possession of drug paraphernalia - penalty.**

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

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

1 THE HYPODERMIC NEEDLE OR SYRINGE OR SECTION 18-18-403.5 FOR ANY
2 MINUSCULE, RESIDUAL CONTROLLED SUBSTANCE THAT MAY BE PRESENT
3 IN A USED HYPODERMIC NEEDLE OR SYRINGE. THE CIRCUMSTANCES
4 DESCRIBED IN THIS PARAGRAPH (b) MAY BE USED AS A FACTOR IN A
5 PROBABLE CAUSE OR REASONABLE SUSPICION DETERMINATION OF ANY
6 CRIMINAL OFFENSE IF THE ORIGINAL STOP OR SEARCH WAS LAWFUL.

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

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

25 **18-18-403.5. Unlawful possession of a controlled substance.**
26 (1) Except as authorized by part 1 or 3 of article 42.5 of title 12, C.R.S.,
27 part 2 of article 80 of title 27, C.R.S., section 18-1-711, SECTION

1 18-18-428 (1) (b), or part 2 or 3 of this article, it is unlawful for a person
2 knowingly to possess a controlled substance.

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

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

16 **25-1-520. Clean syringe exchange programs - approval -**
17 **reporting requirements.** (2) Each proposed clean syringe exchange
18 program shall, at a minimum, have the ability to:

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

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

24 (g) DEVELOP AN EDUCATION PROGRAM REGARDING THE LEGAL
25 RIGHTS UNDER THIS SECTION AND SECTION 18-18-428 (1) (b), C.R.S.,
26 THAT ENCOURAGES PARTICIPANTS TO ALWAYS DISCLOSE THEIR
27 POSSESSION OF HYPODERMIC NEEDLES OR SYRINGES TO PEACE OFFICERS

1 OR EMERGENCY MEDICAL TECHNICIANS OR OTHER FIRST RESPONDERS

2 PRIOR TO A SEARCH.

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

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