

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0767.01 Michael Dohr x4347

SENATE BILL 15-116

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

Garnett,

Senate Committees
Judiciary

House Committees

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.*

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

1 SECTION 18-18-403.5 FOR ANY TRACE, RESIDUAL CONTROLLED SUBSTANCE
2 THAT MAY BE PRESENT IN A USED HYPODERMIC NEEDLE OR SYRINGE. THE
3 CIRCUMSTANCES DESCRIBED IN THIS PARAGRAPH (b) MAY BE USED AS A
4 FACTOR IN A PROBABLE CAUSE OR REASONABLE SUSPICION
5 DETERMINATION.

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

8 **18-18-403.5. Unlawful possession of a controlled substance.**
9 (1) Except as authorized by part 1 or 3 of article 42.5 of title 12, C.R.S.,
10 part 2 of article 80 of title 27, C.R.S., section 18-1-711, SECTION
11 18-18-428 (1) (b), or part 2 or 3 of this article, it is unlawful for a person
12 knowingly to possess a controlled substance.

13 (3) IF THE CIRCUMSTANCES DESCRIBED IN SECTION 18-18-428 (1)
14 (b) OCCUR, THE PEACE OFFICER SHALL NOT ARREST THE PERSON PURSUANT
15 TO THIS SECTION FOR ANY TRACE, RESIDUAL CONTROLLED SUBSTANCE
16 THAT MAY BE PRESENT IN THE USED HYPODERMIC NEEDLE OR SYRINGE,
17 AND THE DISTRICT ATTORNEY SHALL NOT CHARGE OR PROSECUTE THE
18 PERSON PURSUANT TO THIS SECTION FOR ANY TRACE, RESIDUAL
19 CONTROLLED SUBSTANCE THAT MAY BE PRESENT IN A USED HYPODERMIC
20 NEEDLE OR SYRINGE. THE CIRCUMSTANCES DESCRIBED IN SECTION
21 18-18-428 (1) (b) MAY BE USED AS A FACTOR IN A PROBABLE CAUSE OR
22 REASONABLE SUSPICION DETERMINATION.

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

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

1 (e) Plan and implement the clean syringe exchange program with
2 the clear objective of reducing the transmission of blood-borne diseases
3 within a specific geographic area; and

4 (f) Develop a timeline for the proposed program and for the
5 development of policies and procedures; AND

6 (g) DEVELOP AN EDUCATION PROGRAM REGARDING THE LEGAL
7 RIGHTS UNDER THIS SECTION AND SECTION 18-18-428(1)(b), C.R.S., THAT
8 ENCOURAGES PARTICIPANTS TO ALWAYS DISCLOSE THEIR POSSESSION OF
9 HYPODERMIC NEEDLES OR SYRINGES TO PEACE OFFICERS PRIOR TO A
10 SEARCH.

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

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