



HARM REDUCTION AND OVERDOSE PREVENTION 50-State Survey

Harm Reduction Laws in the United States

Drug overdose is a continuing epidemic that claimed the lives of over 67,000 Americans in 2018. Opioids, either alone or in combination with other substances, were responsible for approximately 70% of these deaths. Many of these lost lives and other opioid-related harms are preventable through the timely administration of the opioid reversal drug naloxone and, where appropriate, other follow-up care.

Similarly, consistent access to new injection supplies is critical to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among people who inject drugs, and to prevent subsequent infection of sexual partners, children, and others. Unfortunately, state laws and local rules can make it difficult for people who inject drugs to access these lifesaving supplies, and variations in laws among states can create confusion among both people who inject drugs and people and organizations working to ensure that they have the supplies they need to protect themselves and others. This document is designed to reduce this information gap and help individuals and organizations better understand how the legal landscape in their state may impact access to harm reduction services and supplies, including overdose Good Samaritan laws, which provide limited protection from criminal sanctions to encourage people to call for help in an overdose emergency. Specifically, it covers laws related to syringe possession and distribution, naloxone access, statewide naloxone standing orders, and overdose Good Samaritan overdose protections in all 50 states and the District of Columbia.

This document is designed to reduce this information gap and help individuals and organizations better understand how the legal landscape in their state may impact access to harm reduction services and supplies, including overdose Good Samaritan laws, which provide limited protection from criminal sanctions to encourage people to call for help in an overdose emergency. Specifically, it covers laws related to syringe possession and distribution, naloxone access, statewide naloxone standing orders, and overdose Good Samaritan overdose protections in all 50 states and the District of Columbia.

For each state, each area of law is briefly explained in plain language. The relevant citation is also listed, together with a hyperlink that will take the reader to the text of the law. All information is current as of September 15, 2020.

This document was developed by the Harm Reduction Legal Project with the support of NEXT Distro, an online and mail-based harm reduction platform designed to reduce opioid overdose death, prevent injection-related disease transmission, and improve the lives of people who use drugs. For more information about the Harm Reduction Legal Project or to request information or technical assistance regarding harm reduction law or policy, please visit <https://www.networkforphl.org/resources/topics/projects/harm-reduction-legal-project/> or email harmreduction@networkforphl.org. For more information about NEXT Distro or to access harm reduction supplies, please visit <https://nextdistro.org/>. The information contained in this document is available in an easy to access format on the NEXT website at <https://nextdistro.org/policies>.



Montana

Syringe Possession & Distribution

- [Mont. Code Ann. § 45-10-103; 45-10-104.](#)
- The use, possession with intent to use, delivery, and possession with intent to deliver drug paraphernalia is illegal.
- Anything used, intended to be used, or designed to be used to inject a dangerous drug is drug paraphernalia. [Mont. Code Ann. § 45-10-101\(1\).](#)
- The use, possession with intent to use, delivery, and possession with intent to deliver drug paraphernalia is a misdemeanor, with higher penalties for delivery or sale to a minor.
- A person with a first violation of use or possession with intent to use drug paraphernalia is entitled to a punishment that is not imprisonment.
- The laws regarding syringes do not apply to employees or volunteers of an organization providing syringe exchange services. [Mont. Code Ann. § 45-10-107 \(3\).](#) This law appears to authorize syringe exchange services, but does not appear to provide protection to clients of the exchange from the drug paraphernalia laws.

Naloxone Access Law

- [Mont. Code Ann. § 50-32-603 et seq.](#)
- A prescriber may prescribe, directly, by standing order, or by collaborative practice agreement, and give naloxone to people who are at risk of overdose or are a friend, family member, or other person in the position to help in the case of an overdose, in addition to first responders, state crime labs, probation/parole officers, harm reduction organizations, public health officials, and veterans' service organizations.
- A prescriber, pharmacist, and any eligible recipients may distribute naloxone if they provide basic instruction. Eligible recipients must also train their employees on use, storage, and maintenance of the naloxone to be distributed.
- A person who administers lawfully acquired naloxone and has received basic instruction may possess, store, and distribute naloxone to an eligible recipient. They may also, in good faith, administer naloxone to a person experiencing an overdose.
- Any prescriber, pharmacist, or eligible recipient is immune from civil or criminal liability or disciplinary action for lawfully prescribing, dispensing, or distributing naloxone, so long as there was no gross negligence, willful or wanton misconduct, or intentional tort.
- A person is not liable for disciplinary action for administering naloxone, so long as there was no gross negligence, willful or wanton misconduct, or intentional tort.

Naloxone Standing Order

- <https://dphhs.mt.gov/Portals/85/publichealth/documents/EMSTS/opioids/2019-Naloxone%20Standing%20Order.pdf?ver=2019-06-11-154909-540>
- The order allows pharmacists to give intranasal naloxone (either Narcan spray or generic atomizer) and auto-injector naloxone (like Evzio) to people who are at risk of overdose or are a friend, family member, or other person in the position to help in the case of an overdose, in addition to first responders, state crime labs, probation/parole officers, harm reduction organizations, public health officials, and veterans' service organizations.



Good Samaritan Law

- [Mont. Code Ann. § 50-32-609](#)
- A person may not be arrested, charged, or prosecuted with certain types of possession of a dangerous drug or drug paraphernalia so long as the person sought help in good faith for another person experiencing a drug overdose and the evidence for the violation was discovered as a result of calling for help.
- Any person protected under this law cannot be penalized for a violation of a protective order or for a violation of a condition of pretrial release, probation, furlough, supervised release, or parole based on a drug violation.
- Calling for help for a drug overdose may be used as a mitigating factor in a criminal prosecution other than the crimes granted immunity.
- The law also provides protections for pregnant women seeking or receiving help for a substance use disorder.
- The person who overdosed has the same protections.

This document was developed by Amy Judd Lieberman and Corey Davis at the Network for Public Health Law's Harm Reduction Legal Project (harmreduction@networkforphl.org), with the assistance of Robyn Lin at the University of California, Irvine School of Law and the support of NEXT Distro. The information provided in this document does not constitute legal advice or legal representation. You should always consult with an attorney barred in your state for specific legal advice. This document provides a snapshot of the state of the law as of September 15, 2020.

