



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.

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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>.



South Dakota

Syringe Possession & Distribution

- [S.D. Codified Laws § 22-42A-3; 4.](#)
- Syringes are drug paraphernalia if used, intended for use, or designed for use in injecting controlled substances into the human body. [S.D. Codified Laws § 22-42A-1\(9\).](#)
- Use or possession with intent to use drug paraphernalia is a class 2 misdemeanor. [S.D. Codified Laws § 22-42A-3.](#)
- Delivery, possession with intent to deliver, or manufacture with intent to deliver drug paraphernalia is a class 6 felony. [S.D. Codified Laws § 22-42A-4.](#)
- Needle exchange is not authorized by law.

Naloxone Access Law

- [S.D. Codified Laws §§ 34-20a-104 – 08.](#)
- A prescriber may prescribe naloxone, directly or by standing order, to a person at risk of overdose or a family member, friend, or other person able to help someone experiencing an overdose. [S.D. Codified Laws § 34-20A-105.](#)
- Any family member, friend, or other person able to help may possess, give out, and administer naloxone if it is lawfully acquired. [S.D. Codified Laws § 34-20A-104.](#)
- A health care professional who prescribes or gives out naloxone has immunity from civil, criminal, and disciplinary actions. [S.D. Codified Laws § 34-20A-106.](#)
- First responders operating under a standing order may possess and administer naloxone if they first receive training. [S.D. Codified Laws § 34-20A-98; 34-20A-101.](#)
- First responders, and physicians who issue a standing order to first responders, are not civilly liable for any outcome of the administration of naloxone.

Naloxone Standing Order

- <https://www.avoidopioidsd.com/wp-content/uploads/2020/10/South-Dakota-StatewideStanding-Order.pdf>
- The standing order allows pharmacists to give out naloxone to anyone at risk of overdose or a family member, friend, or close third party to a person at risk. Allows pharmacists to give out prepackaged nasal spray (like Narcan), intramuscular naloxone with syringes, or auto-injector naloxone (like Evzio).



Good Samaritan Law

- [S.D. Codified Laws § 34-20A-109—113](#)
- A person may not be arrested or prosecuted for drug use or possession if:
 - o The person called for help for another person experiencing a drug overdose.
 - o The person cooperated with law enforcement and medical personnel
 - o The person stayed with the person needing help until help arrived
 - o The evidence for the charge was found because the person called for help
- The person calling for help, either for themselves or others, can only receive this immunity one time. [S.D. Codified Laws § 34-20A-113](#).
- There appears to be no immunity for the person who overdosed, unless they called for help for themselves. A person who calls for help for themselves qualifies for immunity so long as the evidence was found as a result of them calling for help; they don't need to cooperate with responders and do the other things that a person who calls for help for someone else must do to get immunity.
- Giving first aid (but not necessarily just calling for help) may be used as a mitigating factor in other prosecutions.

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.

