

1 ENGROSSED SENATE
2 BILL NO. 511

By: Montgomery, Hicks and
3 Dossett (J.A.) of the
4 Senate

and

Bush and Pae of the House

7 An Act relating to controlled dangerous substances;
8 amending 63 O.S. 2011, Section 2-101, as last amended
9 by Section 1, Chapter 101, O.S.L. 2020 (63 O.S. Supp.
10 2020, Section 2-101), which relates to definitions;
11 adding and modifying definitions; amending 63 O.S.
12 2011, Section 2-101.1, which relates to drug
13 paraphernalia; providing exception; authorizing
14 certain entities to engage in harm-reduction
15 services; requiring registration with the State
16 Department of Health; providing for certain allowable
17 activities; providing reporting requirements;
18 directing promulgation of rules; providing for
19 codification; and declaring an emergency.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-101, as
22 last amended by Section 1, Chapter 101, O.S.L. 2020 (63 O.S. Supp.
23 2020, Section 2-101), is amended to read as follows:

24 Section 2-101. As used in the Uniform Controlled Dangerous
Substances Act:

1. "Administer" means the direct application of a controlled
dangerous substance, whether by injection, inhalation, ingestion or

1 any other means, to the body of a patient, animal or research
2 subject by:

3 a. a practitioner (or, in the presence of the
4 practitioner, by the authorized agent of the
5 practitioner), or

6 b. the patient or research subject at the direction and
7 in the presence of the practitioner;

8 2. "Agent" means a peace officer appointed by and who acts on
9 behalf of the Director of the Oklahoma State Bureau of Narcotics and
10 Dangerous Drugs Control or an authorized person who acts on behalf
11 of or at the direction of a person who manufactures, distributes,
12 dispenses, prescribes, administers or uses for scientific purposes
13 controlled dangerous substances but does not include a common or
14 contract carrier, public warehouse or employee thereof, or a person
15 required to register under the Uniform Controlled Dangerous
16 Substances Act;

17 3. "Board" means the Advisory Board to the Director of the
18 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

19 4. "Bureau" means the Oklahoma State Bureau of Narcotics and
20 Dangerous Drugs Control;

21 5. "Coca leaves" includes cocaine and any compound,
22 manufacture, salt, derivative, mixture or preparation of coca
23 leaves, except derivatives of coca leaves which do not contain
24 cocaine or ecgonine;

1 6. "Commissioner" or "Director" means the Director of the
2 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

3 7. "Control" means to add, remove or change the placement of a
4 drug, substance or immediate precursor under the Uniform Controlled
5 Dangerous Substances Act;

6 8. "Controlled dangerous substance" means a drug, substance or
7 immediate precursor in Schedules I through V of the Uniform
8 Controlled Dangerous Substances Act or any drug, substance or
9 immediate precursor listed either temporarily or permanently as a
10 federally controlled substance. Any conflict between state and
11 federal law with regard to the particular schedule in which a
12 substance is listed shall be resolved in favor of state law;

13 9. "Counterfeit substance" means a controlled substance which,
14 or the container or labeling of which without authorization, bears
15 the trademark, trade name or other identifying marks, imprint,
16 number or device or any likeness thereof of a manufacturer,
17 distributor or dispenser other than the person who in fact
18 manufactured, distributed or dispensed the substance;

19 10. "Deliver" or "delivery" means the actual, constructive or
20 attempted transfer from one person to another of a controlled
21 dangerous substance or drug paraphernalia, whether or not there is
22 an agency relationship;

23 11. "Dispense" means to deliver a controlled dangerous
24 substance to an ultimate user or human research subject by or

1 pursuant to the lawful order of a practitioner, including the
2 prescribing, administering, packaging, labeling or compounding
3 necessary to prepare the substance for such distribution.

4 "Dispenser" is a practitioner who delivers a controlled dangerous
5 substance to an ultimate user or human research subject;

6 12. "Distribute" means to deliver other than by administering
7 or dispensing a controlled dangerous substance;

8 13. "Distributor" means a commercial entity engaged in the
9 distribution or reverse distribution of narcotics and dangerous
10 drugs and who complies with all regulations promulgated by the
11 federal Drug Enforcement Administration and the Oklahoma State
12 Bureau of Narcotics and Dangerous Drugs Control;

13 14. "Drug" means articles:

14 a. recognized in the official United States

15 Pharmacopoeia, official Homeopathic Pharmacopoeia of
16 the United States, or official National Formulary, or
17 any supplement to any of them,

18 b. intended for use in the diagnosis, cure, mitigation,
19 treatment or prevention of disease in man or other
20 animals,

21 c. other than food, intended to affect the structure or
22 any function of the body of man or other animals, and

23 d. intended for use as a component of any article
24 specified in this paragraph;

1 provided, however, the term "drug" does not include devices or their
2 components, parts or accessories;

3 15. "Drug-dependent person" means a person who is using a
4 controlled dangerous substance and who is in a state of psychic or
5 physical dependence, or both, arising from administration of that
6 controlled dangerous substance on a continuous basis. Drug
7 dependence is characterized by behavioral and other responses which
8 include a strong compulsion to take the substance on a continuous
9 basis in order to experience its psychic effects, or to avoid the
10 discomfort of its absence;

11 16. "Home care agency" means any sole proprietorship,
12 partnership, association, corporation, or other organization which
13 administers, offers, or provides home care services, for a fee or
14 pursuant to a contract for such services, to clients in their place
15 of residence;

16 17. "Home care services" means skilled or personal care
17 services provided to clients in their place of residence for a fee;

18 18. "Hospice" means a centrally administered, nonprofit or
19 profit, medically directed, nurse-coordinated program which provides
20 a continuum of home and inpatient care for the terminally ill
21 patient and the patient's family. Such term shall also include a
22 centrally administered, nonprofit or profit, medically directed,
23 nurse-coordinated program if such program is licensed pursuant to
24 the provisions of the Uniform Controlled Dangerous Substances Act.

1 A hospice program offers palliative and supportive care to meet the
2 special needs arising out of the physical, emotional and spiritual
3 stresses which are experienced during the final stages of illness
4 and during dying and bereavement. This care is available twenty-
5 four (24) hours a day, seven (7) days a week, and is provided on the
6 basis of need, regardless of ability to pay. "Class A" Hospice
7 refers to Medicare certified hospices. "Class B" refers to all
8 other providers of hospice services;

9 19. "Imitation controlled substance" means a substance that is
10 not a controlled dangerous substance, which by dosage unit
11 appearance, color, shape, size, markings or by representations made,
12 would lead a reasonable person to believe that the substance is a
13 controlled dangerous substance. In the event the appearance of the
14 dosage unit is not reasonably sufficient to establish that the
15 substance is an "imitation controlled substance", the court or
16 authority concerned should consider, in addition to all other
17 factors, the following factors as related to "representations made"
18 in determining whether the substance is an "imitation controlled
19 substance":

- 20 a. statements made by an owner or by any other person in
21 control of the substance concerning the nature of the
22 substance, or its use or effect,
- 23 b. statements made to the recipient that the substance
24 may be resold for inordinate profit,

- 1 c. whether the substance is packaged in a manner normally
2 used for illicit controlled substances,
3 d. evasive tactics or actions utilized by the owner or
4 person in control of the substance to avoid detection
5 by law enforcement authorities,
6 e. prior convictions, if any, of an owner, or any other
7 person in control of the object, under state or
8 federal law related to controlled substances or fraud,
9 and
10 f. the proximity of the substances to controlled
11 dangerous substances;

12 20. "Immediate precursor" means a substance which the Director
13 has found to be and by regulation designates as being the principal
14 compound commonly used or produced primarily for use, and which is
15 an immediate chemical intermediary used, or likely to be used, in
16 the manufacture of a controlled dangerous substance, the control of
17 which is necessary to prevent, curtail or limit such manufacture;

18 21. "Laboratory" means a laboratory approved by the Director as
19 proper to be entrusted with the custody of controlled dangerous
20 substances and the use of controlled dangerous substances for
21 scientific and medical purposes and for purposes of instruction;

22 22. "Manufacture" means the production, preparation,
23 propagation, compounding or processing of a controlled dangerous
24 substance, either directly or indirectly by extraction from

1 substances of natural or synthetic origin, or independently by means
2 of chemical synthesis or by a combination of extraction and chemical
3 synthesis. "Manufacturer" includes any person who packages,
4 repackages or labels any container of any controlled dangerous
5 substance, except practitioners who dispense or compound
6 prescription orders for delivery to the ultimate consumer;

7 23. "Marijuana" means all parts of the plant *Cannabis sativa*
8 L., whether growing or not; the seeds thereof; the resin extracted
9 from any part of such plant; and every compound, manufacture, salt,
10 derivative, mixture or preparation of such plant, its seeds or
11 resin, but shall not include:

- 12 a. the mature stalks of such plant or fiber produced from
13 such stalks,
- 14 b. oil or cake made from the seeds of such plant,
15 including cannabidiol derived from the seeds of the
16 marijuana plant,
- 17 c. any other compound, manufacture, salt, derivative,
18 mixture or preparation of such mature stalks (except
19 the resin extracted therefrom), including cannabidiol
20 derived from mature stalks, fiber, oil or cake,
- 21 d. the sterilized seed of such plant which is incapable
22 of germination,
- 23 e. for any person participating in a clinical trial to
24 administer cannabidiol for the treatment of severe

1 forms of epilepsy pursuant to Section 2-802 of this
2 title, a drug or substance approved by the federal
3 Food and Drug Administration for use by those
4 participants,

- 5 f. for any person or the parents, legal guardians or
6 caretakers of the person who have received a written
7 certification from a physician licensed in this state
8 that the person has been diagnosed by a physician as
9 having Lennox-Gastaut syndrome, Dravet syndrome, also
10 known as Severe Myoclonic Epilepsy of Infancy, or any
11 other severe form of epilepsy that is not adequately
12 treated by traditional medical therapies, spasticity
13 due to multiple sclerosis or due to paraplegia,
14 intractable nausea and vomiting, appetite stimulation
15 with chronic wasting diseases, the substance
16 cannabidiol, a nonpsychoactive cannabinoid, found in
17 the plant *Cannabis sativa* L. or any other preparation
18 thereof, that has a tetrahydrocannabinol concentration
19 of not more than three-tenths of one percent (0.3%)
20 and that is delivered to the patient in the form of a
21 liquid,
- 22 g. any federal Food and Drug Administration-approved
23 cannabidiol drug or substance, or
24

1 h. industrial hemp, from the plant Cannabis sativa L. and
2 any part of such plant, whether growing or not, with a
3 delta-9 tetrahydrocannabinol concentration of not more
4 than three-tenths of one percent (0.3%) on a dry
5 weight basis which shall only be grown pursuant to the
6 Oklahoma Industrial Hemp Program and may be shipped
7 intrastate and interstate;

8 24. "Medical purpose" means an intention to utilize a
9 controlled dangerous substance for physical or mental treatment, for
10 diagnosis, or for the prevention of a disease condition not in
11 violation of any state or federal law and not for the purpose of
12 satisfying physiological or psychological dependence or other abuse;

13 25. "Mid-level practitioner" means an Advanced Practice
14 Registered Nurse as defined and within parameters specified in
15 Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified
16 animal euthanasia technician as defined in Section 698.2 of Title 59
17 of the Oklahoma Statutes, or an animal control officer registered by
18 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
19 under subsection B of Section 2-301 of this title within the
20 parameters of such officer's ~~duty~~ duties under Sections 501 through
21 508 of Title 4 of the Oklahoma Statutes;

22 26. "Narcotic drug" means any of the following, whether
23 produced directly or indirectly by extraction from substances of
24

1 vegetable origin, or independently by means of chemical synthesis,
2 or by a combination of extraction and chemical synthesis:

- 3 a. opium, coca leaves and opiates,
- 4 b. a compound, manufacture, salt, derivative or
5 preparation of opium, coca leaves or opiates,
- 6 c. cocaine, its salts, optical and geometric isomers, and
7 salts of isomers,
- 8 d. ecgonine, its derivatives, their salts, isomers and
9 salts of isomers, and
- 10 e. a substance, and any compound, manufacture, salt,
11 derivative or preparation thereof, which is chemically
12 identical with any of the substances referred to in
13 subparagraphs a through d of this paragraph, except
14 that the words "narcotic drug" as used in Section 2-
15 101 et seq. of this title shall not include
16 decocainized coca leaves or extracts of coca leaves,
17 which extracts do not contain cocaine or ecgonine;

18 27. "Opiate" or "opioid" means any Schedule II, III, IV or V
19 substance having an addiction-forming or addiction-sustaining
20 liability similar to morphine or being capable of conversion into a
21 drug having such addiction-forming or addiction-sustaining
22 liability. The terms do not include, unless specifically designated
23 as controlled under the Uniform Controlled Dangerous Substances Act,
24 the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its

1 salts (dextromethorphan). The terms do include the racemic and
2 levorotatory forms;

3 28. "Opium poppy" means the plant of the species *Papaver*
4 *somniferum* L., except the seeds thereof;

5 29. "Peace officer" means a police officer, sheriff, deputy
6 sheriff, district attorney's investigator, investigator from the
7 Office of the Attorney General, or any other person elected or
8 appointed by law to enforce any of the criminal laws of this state
9 or of the United States;

10 30. "Person" means an individual, corporation, government or
11 governmental subdivision or agency, business trust, estate, trust,
12 partnership or association, or any other legal entity;

13 31. "Poppy straw" means all parts, except the seeds, of the
14 opium poppy, after mowing;

15 32. "Practitioner" means:

- 16 a. (1) a medical doctor or osteopathic physician,
17 (2) a dentist,
18 (3) a podiatrist,
19 (4) an optometrist,
20 (5) a veterinarian,
21 (6) a physician assistant or Advanced Practice
22 Registered Nurse under the supervision of a
23 licensed medical doctor or osteopathic physician,
24 (7) a scientific investigator, or

1 (8) any other person,
2 licensed, registered or otherwise permitted to
3 prescribe, distribute, dispense, conduct research with
4 respect to, use for scientific purposes or administer
5 a controlled dangerous substance in the course of
6 professional practice or research in this state, or
7 b. a pharmacy, hospital, laboratory or other institution
8 licensed, registered or otherwise permitted to
9 distribute, dispense, conduct research with respect
10 to, use for scientific purposes or administer a
11 controlled dangerous substance in the course of
12 professional practice or research in this state;

13 33. "Production" includes the manufacture, planting,
14 cultivation, growing or harvesting of a controlled dangerous
15 substance;

16 34. "State" means the State of Oklahoma or any other state of
17 the United States;

18 35. "Ultimate user" means a person who lawfully possesses a
19 controlled dangerous substance for the person's own use or for the
20 use of a member of the person's household or for administration to
21 an animal owned by the person or by a member of the person's
22 household;

23 36. "Drug paraphernalia" means all equipment, products and
24 materials of any kind which are used, intended for use, or fashioned

1 specifically for use in planting, propagating, cultivating, growing,
2 harvesting, manufacturing, compounding, converting, producing,
3 processing, preparing, testing, analyzing, packaging, repackaging,
4 storing, containing, concealing, injecting, ingesting, inhaling or
5 otherwise introducing into the human body, a controlled dangerous
6 substance in violation of the Uniform Controlled Dangerous
7 Substances Act including, but not limited to:

- 8 a. kits used, intended for use, or fashioned specifically
9 for use in planting, propagating, cultivating, growing
10 or harvesting of any species of plant which is a
11 controlled dangerous substance or from which a
12 controlled dangerous substance can be derived,
- 13 b. kits used, intended for use, or fashioned specifically
14 for use in manufacturing, compounding, converting,
15 producing, processing or preparing controlled
16 dangerous substances,
- 17 c. isomerization devices used, intended for use, or
18 fashioned specifically for use in increasing the
19 potency of any species of plant which is a controlled
20 dangerous substance,
- 21 d. testing equipment used, intended for use, or fashioned
22 specifically for use in identifying, or in analyzing
23 the strength, effectiveness or purity of controlled
24 dangerous substances,

- 1 e. scales and balances used, intended for use, or
2 fashioned specifically for use in weighing or
3 measuring controlled dangerous substances,
- 4 f. diluents and adulterants, such as quinine
5 hydrochloride, mannitol, mannite, dextrose and
6 lactose, used, intended for use, or fashioned
7 specifically for use in cutting controlled dangerous
8 substances,
- 9 g. separation gins and sifters used, intended for use, or
10 fashioned specifically for use in removing twigs and
11 seeds from, or in otherwise cleaning or refining,
12 marijuana,
- 13 h. blenders, bowls, containers, spoons and mixing devices
14 used, intended for use, or fashioned specifically for
15 use in compounding controlled dangerous substances,
- 16 i. capsules, balloons, envelopes and other containers
17 used, intended for use, or fashioned specifically for
18 use in packaging small quantities of controlled
19 dangerous substances,
- 20 j. containers and other objects used, intended for use,
21 or fashioned specifically for use in parenterally
22 injecting controlled dangerous substances into the
23 human body,
24

1 k. hypodermic syringes, needles and other objects used,
2 intended for use, or fashioned specifically for use in
3 parenterally injecting controlled dangerous substances
4 into the human body except as authorized by Section 3
5 of this act,

6 l. objects used, intended for use, or fashioned
7 specifically for use in ingesting, inhaling or
8 otherwise introducing marijuana, cocaine, hashish or
9 hashish oil into the human body, such as:

- 10 (1) metal, wooden, acrylic, glass, stone, plastic or
11 ceramic pipes with or without screens, permanent
12 screens, hashish heads or punctured metal bowls,
13 (2) water pipes,
14 (3) carburetion tubes and devices,
15 (4) smoking and carburetion masks,
16 (5) roach clips, meaning objects used to hold burning
17 material, such as a marijuana cigarette, that has
18 become too small or too short to be held in the
19 hand,
20 (6) miniature cocaine spoons and cocaine vials,
21 (7) chamber pipes,
22 (8) carburetor pipes,
23 (9) electric pipes,
24 (10) air-driven pipes,

1 (11) chillums,

2 (12) bongs, or

3 (13) ice pipes or chillers,

4 m. all hidden or novelty pipes, and

5 n. any pipe that has a tobacco bowl or chamber of less
6 than one-half (1/2) inch in diameter in which there is
7 any detectable residue of any controlled dangerous
8 substance as defined in this section or any other
9 substances not legal for possession or use;

10 provided, however, the term "drug paraphernalia" shall not include
11 separation gins intended for use in preparing tea or spice, clamps
12 used for constructing electrical equipment, water pipes designed for
13 ornamentation in which no detectable amount of an illegal substance
14 is found or pipes designed and used solely for smoking tobacco,
15 traditional pipes of an American Indian tribal religious ceremony,
16 or antique pipes that are thirty (30) years of age or older;

17 37. a. "Synthetic controlled substance" means a substance:

18 (1) the chemical structure of which is substantially
19 similar to the chemical structure of a controlled
20 dangerous substance in Schedule I or II,

21 (2) which has a stimulant, depressant, or
22 hallucinogenic effect on the central nervous
23 system that is substantially similar to or
24 greater than the stimulant, depressant or

1 hallucinogenic effect on the central nervous
2 system of a controlled dangerous substance in
3 Schedule I or II, or

4 (3) with respect to a particular person, which such
5 person represents or intends to have a stimulant,
6 depressant, or hallucinogenic effect on the
7 central nervous system that is substantially
8 similar to or greater than the stimulant,
9 depressant, or hallucinogenic effect on the
10 central nervous system of a controlled dangerous
11 substance in Schedule I or II.

12 b. The designation of gamma butyrolactone or any other
13 chemical as a precursor, pursuant to Section 2-322 of
14 this title, does not preclude a finding pursuant to
15 subparagraph a of this paragraph that the chemical is
16 a synthetic controlled substance.

17 c. "Synthetic controlled substance" does not include:

18 (1) a controlled dangerous substance,

19 (2) any substance for which there is an approved new
20 drug application,

21 (3) with respect to a particular person any
22 substance, if an exemption is in effect for
23 investigational use, for that person under the
24 provisions of Section 505 of the Federal Food,

1 Drug and Cosmetic Act, Title 21 of the United
2 States Code, Section 355, to the extent conduct
3 with respect to such substance is pursuant to
4 such exemption, or

5 (4) any substance to the extent not intended for
6 human consumption before such an exemption takes
7 effect with respect to that substance.

8 d. Prima facie evidence that a substance containing
9 salvia divinorum has been enhanced, concentrated or
10 chemically or physically altered shall give rise to a
11 rebuttable presumption that the substance is a
12 synthetic controlled substance;

13 38. "Tetrahydrocannabinols" means all substances that have been
14 chemically synthesized to emulate the tetrahydrocannabinols of
15 marijuana;

16 39. "Isomer" means the optical isomer, except as used in
17 subsections C and F of Section 2-204 of this title and paragraph 4
18 of subsection A of Section 2-206 of this title. As used in
19 subsections C and F of Section 2-204 of this title, "isomer" means
20 the optical, positional or geometric isomer. As used in paragraph 4
21 of subsection A of Section 2-206 of this title, the term "isomer"
22 means the optical or geometric isomer;

23 40. "Hazardous materials" means materials, whether solid,
24 liquid or gas, which are toxic to human, animal, aquatic or plant

1 life, and the disposal of which materials is controlled by state or
2 federal guidelines;

3 41. "Anhydrous ammonia" means any substance that exhibits
4 cryogenic evaporative behavior and tests positive for ammonia;

5 42. "Acute pain" means pain, whether resulting from disease,
6 accidental or intentional trauma or other cause, that the
7 practitioner reasonably expects to last only a short period of time.
8 "Acute pain" does not include chronic pain, pain being treated as
9 part of cancer care, hospice or other end-of-life care, or pain
10 being treated as part of palliative care;

11 43. "Chronic pain" means pain that persists beyond the usual
12 course of an acute disease or healing of an injury. "Chronic pain"
13 may or may not be associated with an acute or chronic pathologic
14 process that causes continuous or intermittent pain over months or
15 years;

16 44. "Initial prescription" means a prescription issued to a
17 patient who:

18 a. has never previously been issued a prescription for
19 the drug or its pharmaceutical equivalent in the past
20 year, or

21 b. requires a prescription for the drug or its
22 pharmaceutical equivalent due to a surgical procedure
23 or new acute event and has previously had a
24

1 prescription for the drug or its pharmaceutical
2 equivalent within the past year.

3 When determining whether a patient was previously issued a
4 prescription for a drug or its pharmaceutical equivalent, the
5 practitioner shall consult with the patient and review the medical
6 record and prescription monitoring information of the patient;

7 45. "Patient-provider agreement" means a written contract or
8 agreement that is executed between a practitioner and a patient,
9 prior to the commencement of treatment for chronic pain using an
10 opioid drug as a means to:

- 11 a. explain the possible risk of development of physical
12 or psychological dependence in the patient and prevent
13 the possible development of addiction,
- 14 b. document the understanding of both the practitioner
15 and the patient regarding the patient-provider
16 agreement of the patient,
- 17 c. establish the rights of the patient in association
18 with treatment and the obligations of the patient in
19 relation to the responsible use, discontinuation of
20 use, and storage of opioid drugs, including any
21 restrictions on the refill of prescriptions or the
22 acceptance of opioid prescriptions from practitioners,
- 23 d. identify the specific medications and other modes of
24 treatment, including physical therapy or exercise,

- 1 relaxation or psychological counseling, that are
2 included as a part of the patient-provider agreement,
3 e. specify the measures the practitioner may employ to
4 monitor the compliance of the patient including, but
5 not limited to, random specimen screens and pill
6 counts, and
7 f. delineate the process for terminating the agreement,
8 including the consequences if the practitioner has
9 reason to believe that the patient is not complying
10 with the terms of the agreement. Compliance with the
11 "consent items" shall constitute a valid, informed
12 consent for opioid therapy. The practitioner shall be
13 held harmless from civil litigation for failure to
14 treat pain if the event occurs because of nonadherence
15 by the patient with any of the provisions of the
16 patient-provider agreement;

17 46. "Serious illness" means a medical illness or physical
18 injury or condition that substantially affects quality of life for
19 more than a short period of time. "Serious illness" includes, but
20 is not limited to, Alzheimer's disease or related dementias, lung
21 disease, cancer, heart failure, renal failure, liver failure or
22 chronic, unremitting or intractable pain such as neuropathic pain;
23 and
24

1 47. "Surgical procedure" means a procedure that is performed
2 for the purpose of structurally altering the human body by incision
3 or destruction of tissues as part of the practice of medicine. This
4 term includes the diagnostic or therapeutic treatment of conditions
5 or disease processes by use of instruments such as lasers,
6 ultrasound, ionizing, radiation, scalpels, probes or needles that
7 cause localized alteration or transportation of live human tissue by
8 cutting, burning, vaporizing, freezing, suturing, probing or
9 manipulating by closed reduction for major dislocations or
10 fractures, or otherwise altering by any mechanical, thermal, light-
11 based, electromagnetic or chemical means; and

12 48. "Harm-reduction services" means programs established to:
13 a. reduce the spread of infectious diseases related to
14 injection drug use,
15 b. reduce drug dependency, overdose deaths and associated
16 complications, and
17 c. increase safe recovery and disposal of used syringes
18 and sharp waste.

19 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-101.1, is
20 amended to read as follows:

21 Section 2-101.1. In determining whether an object is "drug
22 paraphernalia", a court or jury shall consider, in addition to all
23 other logically relevant factors, the following:
24

- 1 1. Statements by an owner or by anyone in control of the object
2 concerning its use;
- 3 2. The proximity of the object, in time and space, to a direct
4 violation of the Uniform Controlled Dangerous Substances Act;
- 5 3. The proximity of the object to controlled dangerous
6 substances;
- 7 4. The existence of any residue of controlled dangerous
8 substances on the object;
- 9 5. Direct or circumstantial evidence of the intent of an owner,
10 or of anyone in control of the object, to deliver it to any person
11 who intends to use the object to facilitate a violation of the
12 Uniform Controlled Dangerous Substances Act. The innocence of an
13 owner, or of anyone in control of the object, as to a direct
14 violation of this act shall not prevent a finding that the object is
15 intended for use, or fashioned specifically for use, as drug
16 paraphernalia;
- 17 6. Instructions, oral or written, provided with the object
18 which either state directly or imply that the object is to be used
19 for the consumption of controlled dangerous substances;
- 20 7. Descriptive materials accompanying the object which explain
21 or depict its use as an object for the consumption of controlled
22 dangerous substances;
- 23 8. The manner in which the object is displayed for sale;
- 24

1 9. Whether the owner, or anyone in control of the object, is a
2 legitimate supplier of like or related items to the community, such
3 as a licensed distributor or dealer of tobacco products;

4 10. Direct or circumstantial evidence of the ratio of sales of
5 the object or objects to the total sales of the business enterprise;

6 11. The existence and scope of legitimate uses for the object
7 in the community; and

8 12. Expert testimony concerning its use.

9 Provided, nothing in this section shall apply to objects in the
10 possession of harm-reduction services providers as authorized by
11 Section 3 of this act.

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2-1101 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 A. Until July 1, 2026, the following are hereby authorized to
16 engage in harm-reduction services:

17 1. Government entities including, but not limited to, the State
18 Department of Health and the Department of Mental Health and
19 Substance Abuse Services; provided, no state dollars shall be used
20 to purchase hypodermic needles;

21 2. Religious institutions or churches;

22 3. Nonprofit organizations;

23 4. For-profit companies;

1 5. Nongovernment entities partnering with a governmental
2 agency; and

3 6. Tribal governments.

4 B. Those offering harm-reduction services shall register with
5 the State Department of Health and may engage in the following
6 activities in order to reduce the use of drugs, prevent outbreaks of
7 infectious diseases and reduce morbidity among people who use
8 injection drugs:

9 1. Offer referrals and resources to treat substance use
10 disorders;

11 2. Provide education on the risk of transmission of infectious
12 diseases, including human immunodeficiency virus (HIV) and viral
13 hepatitis;

14 3. Rapid testing for HIV, hepatitis C and sexually transmitted
15 infections (STIs);

16 4. Referrals for medical and mental health services;

17 5. Collect used hypodermic needles for safe disposal;

18 6. Possess and distribute hypodermic needles, cleaning kits,
19 test kits and opioid antagonists; and

20 7. Rapid substance testing products used, intended for use, or
21 fashioned specifically for the use in identifying or analyzing the
22 potency or toxicity of unknown substances.

23 C. Registered providers of harm-reduction services shall report
24 at least quarterly to the State Department of Health:

1 1. The number of clients served including basic demographic
2 information;

3 2. Number and type of referrals provided;

4 3. Number of syringes, test kits and antagonists distributed;

5 4. Number of used syringes collected; and

6 5. Number of rapid HIV and viral hepatitis tests performed
7 including the number of reactive test results.

8 D. The State Commissioner of Health shall promulgate rules for
9 the implementation of this section.

10 SECTION 4. It being immediately necessary for the preservation
11 of the public peace, health or safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14 Passed the Senate the 3rd day of March, 2021.

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Presiding Officer of the Senate

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18 Passed the House of Representatives the ____ day of _____,
19 2021.

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Presiding Officer of the House
of Representatives

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