

Laws Affecting People Who Use Drugs

Overview

In Minnesota, there are laws and services that impact people who use drugs (PWUD). These laws and services provide some protections against criminal prosecution and reduce the harms of drug use.

There can be confusion around what these laws and services provide and what they do not. This document is an overview of the protections of Steve's Law, the Syringe Exchange Law and the drug paraphernalia law, as well as tips for how to engage with law enforcement and first responders.

Steve's Law (604A.04-05)

Steve's Law, also known as the Good Samaritan law, passed in 2014, provides limited protections to people who call 911 and/or administer naloxone in response to a suspected or known drug overdose. To read this law in full visit the statute website at [Minnesota Session Laws – 2014, Regular Session: Chapter 232—S.F.No. 1900](https://www.revisor.mn.gov/laws/2014/0/Session+Law/Chapter/232/) (<https://www.revisor.mn.gov/laws/2014/0/Session+Law/Chapter/232/>).

Protections of Steve's Law:

The person calling 911 to report a suspected or known drug overdose is protected from prosecution for using or possessing drugs related to the particular overdose they are calling 911 for or responding to by administering naloxone.

Limitations of Steve's Law:

Steve's Law provides no immunity to

- Responders to the overdose for other criminal activities, such as an outstanding warrant for an arrest, perpetrating violence against another person, or gun possession.
- Bystanders of the drug related overdose for criminal activity, including consumption of the drug(s) that was involved in the overdose.
- Anyone present for criminal charges or prosecution related to the buying or selling of drugs, including those that may have been involved in the drug overdose.

Syringe Access (151.40)

Statute 151.40, Possession and Sale of Hypodermic Syringes and Needles, is a statute that increases access to sterile syringes by allowing pharmacists and pharmacy technicians to sell up to ten syringes at a time without a prescription. This statute is commonly known as the “Syringe Access Initiative”. To read this statute in full visit [2019 Minnesota Statutes: 151.40 Possession and Sale of Hypodermic Syringes and Needles](https://www.revisor.mn.gov/statutes/cite/151.40) (<https://www.revisor.mn.gov/statutes/cite/151.40>).

Historically, people have thought that the Syringe Access Law protects Syringe Service Programs (SSPs) and people who inject drugs (PWID). However, the only people protected by the law are those listed in subdivision 1 of the statute such as pharmacists, wholesalers, and assisted living facilities.

Because subdivision 1 does not list SSPs and PWUD, these groups do not have any explicit legal protections for the possession, distribution, or exchange of sterile or used syringes/needles. While many police officers and police departments have made the decision not to make arrests for the possession of unused syringes, it is up to the responding officer whether to arrest or not.

The Minnesota Department of Health maintains a list of pharmacies that participate in Syringe Access and Disposal. Participation in syringe access is not mandatory. Many large pharmacy chains such as Walgreens and CVS have opted to participate. Individual pharmacies (independent or part of a chain) may choose to participate or not. In addition, individual pharmacists or pharmacy technicians may not be aware of the Syringe Access Initiative, may not have training around the Initiative, or may not stock syringes. This variability can make accessing sterile syringes from pharmacies an unpredictable and frustrating experience.

Twenty-four states and the District of Columbia have state statutes that fully or partially authorize the existence of syringe service programs statewide (CDC). Additionally, 38 states and the District of Columbia have federal funding allocated to support SSPs as an evidence-based approach to prevent the transmission of infectious disease, reduce drug overdoses, and increase admissions to treatment. However, current federal funding rules do not allow organizations to purchase syringes with this federal funding.

Currently Minnesota receives federal funding to support SSPs but has no state statute that includes language legalizing or prohibiting syringe exchange programs.

Possession of Drug Paraphernalia (152.092)

Variability of Drug Paraphernalia Statute

SSPs distribute sterile syringes and other drug use equipment. As defined by the Possession of Drug Paraphernalia statute, this equipment falls into the drug paraphernalia category. It is up to law enforcement when and how the statute is used. Here are two different examples:

- If a police officer encounters a person or organization that has sterile drug use equipment, generally, this is considered a public health response and this statute is not enacted.
- If a police officer encounters a person or organization that is part of an overdose emergency or crime scene where used drug use equipment is connected to the public safety issue then they may issue a charge of Possession.

The way that this statute is used varies by region, precinct, officer, and based on details of the incident. This variability creates uncertainty for SSP staff and participants.

Implications of Drug Paraphernalia Statute

Minnesota defines drug paraphernalia as any equipment, product or material intentionally used to manufacture, consume, test or increase the effect of a controlled substance. Under this statute, a controlled substance is defined as any illicit or illegally obtained drug (e.g., methamphetamine, heroin, prescription drugs consumed differently than prescribed).

Drug paraphernalia does not include the sale or purchase of up to 10 sterile syringes/needles when purchased in accordance with the syringe access initiative.

In Minnesota the possession of drug paraphernalia, regardless of intended use (e.g., administration of medication like naloxone and insulin, administration of illicit drugs like methamphetamine and heroin), is illegal and first and second violations of this law are a petty misdemeanor. This is comparable to a parking or speeding ticket, and carries a fine up to \$300 and no jail time. A third or more violation of this law is a misdemeanor and can carry up to a 90-day imprisonment, a fine of up to \$1,000, or both.

Law Enforcement and Emergency Services

When a suspected or known overdose is reported to 911, the dispatcher receiving the call sends resources based on availability and need. Often, some combination of emergency medical services (EMS) and police officers will respond to the scene.

Protection when Reporting an Overdose

The person calling 911 to report a suspected or known overdose is protected from prosecution for using or possessing drugs related to the overdose, but is not protected for outstanding warrants or other criminal behavior.

Police officers are not required to arrest the reporting individual for outstanding warrants, but may choose to do so. Police officers may make an arrest or may advise on how to resolve the warrant at a future date depending on different factors. Potential factors could include the warrant, past criminal activity, the officer, whether or not the reporting individual has committed a crime against the person overdosing, and the role(s) of the person present at the scene (reporter, drug user, drug seller).

If the person reporting the known or suspected overdose remains on scene, the first responder on the scene may want to know more information about the causes surrounding the overdose, including:

- Known or suspected medical conditions
- The drug(s) being used
- The source of the drug(s) (to track possible bad batches)
- What drug(s) and/or drug paraphernalia are present on the scene
- How many doses of naloxone were given
- The used naloxone syringes can be given to first responders for safe disposal

The first responders at the scene of the overdose will suggest or require transportation to the emergency department for observation. This is **because the effects of naloxone last only 30-45 minutes**. Depending on the strength of the opioid that caused the overdose, the person may overdose again as the naloxone wears off.

It is important to get medical help so that your loved one does not die. Police officers and/or EMS will show up. You cannot be arrested for drug use or paraphernalia related to the overdose, but you can be arrested for outstanding warrants and other criminal activity on the scene.

Minnesota Department of Health
STD/HIV/TB Section
651-201-5414
www.health.state.mn.us/syringe

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To obtain this information in a different format, call: 651-201-5414.