

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

# HOUSE BILL 2389

AN ACT

AMENDING TITLE 36, CHAPTER 6, ARTICLE 9, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 36-791; AMENDING TITLE 36, CHAPTER 6, ARIZONA REVISED  
STATUTES, BY ADDING ARTICLE 10; RELATING TO PUBLIC HEALTH.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, chapter 6, article 9, Arizona Revised  
3 Statutes, is amended by adding section 36-791, to read:

4 36-791. Public health emergency; declaration; notification

5 THE DIRECTOR MAY DECLARE A PUBLIC HEALTH EMERGENCY TO ADDRESS A  
6 POSSIBLE OUTBREAK OF AN INFECTIOUS DISEASE THAT IS BEING SPREAD BY THE  
7 SHARING OF NEEDLES. THE DIRECTOR MAY LIMIT THE PUBLIC HEALTH EMERGENCY TO  
8 A SPECIFIC GEOGRAPHIC AREA IN THIS STATE. THE DIRECTOR SHALL NOTIFY THE  
9 LOCAL HEALTH AUTHORITY IN THE GEOGRAPHIC AREA IN WHICH THE PUBLIC HEALTH  
10 EMERGENCY IS DECLARED.

11 Sec. 2. Title 36, chapter 6, Arizona Revised Statutes, is amended  
12 by adding article 10, to read:

13 ARTICLE 10. NEEDLE AND HYPODERMIC SYRINGE EXCHANGE

14 36-795. Needle and hypodermic syringe exchange programs;  
15 authorization; declaration of public health  
16 emergency; definition

17 A. A QUALIFIED ENTITY MAY OPERATE A NEEDLE AND HYPODERMIC SYRINGE  
18 EXCHANGE PROGRAM IN A JURISDICTION WHERE A PUBLIC HEALTH EMERGENCY HAS  
19 BEEN DECLARED BY THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES  
20 PURSUANT TO SECTION 36-791 RELATED TO AN OUTBREAK OF AN INFECTIOUS DISEASE  
21 THAT IS BEING SPREAD BY THE SHARING OF NEEDLES. THE PROGRAM MAY OPERATE  
22 FOR THE DURATION OF THE PUBLIC HEALTH EMERGENCY UNLESS A COUNTY OR  
23 MUNICIPALITY REVOKES THE AUTHORIZATION UNDER THIS SECTION OF THE NONPROFIT  
24 ORGANIZATION THAT IS OPERATING THE PROGRAM. THE OBJECTIVES OF A PROGRAM  
25 ESTABLISHED PURSUANT TO THIS SECTION SHALL BE ALL OF THE FOLLOWING:

26 1. TO REDUCE THE SPREAD OF VIRAL HEPATITIS AND OTHER BLOODBORNE  
27 DISEASES IN THIS STATE.

28 2. TO REDUCE NEEDLE-STICK INJURIES TO LAW ENFORCEMENT OFFICERS AND  
29 OTHER EMERGENCY PERSONNEL.

30 3. TO ENCOURAGE INDIVIDUALS WHO INJECT DRUGS TO ENROLL IN  
31 EVIDENCE-BASED TREATMENT.

32 4. TO REDUCE THE NUMBER OF USED NEEDLES AND HYPODERMIC SYRINGES  
33 THAT ARE DISPOSED OF IN PUBLIC PLACES WITHIN THE COMMUNITY.

34 B. A PROGRAM ESTABLISHED PURSUANT TO THIS SECTION SHALL OFFER ALL  
35 OF THE FOLLOWING:

36 1. DISPOSAL OF USED NEEDLES AND HYPODERMIC SYRINGES.

37 2. NEEDLES, HYPODERMIC SYRINGES AND OTHER INJECTION SUPPLIES AT NO  
38 COST AND IN QUANTITIES SUFFICIENT TO ENSURE THAT NEEDLES, HYPODERMIC  
39 SYRINGES AND OTHER INJECTION SUPPLIES ARE NOT SHARED OR REUSED.

40 3. EDUCATIONAL MATERIALS ON ALL OF THE FOLLOWING:

41 (a) OVERDOSE PREVENTION.

42 (b) THE PREVENTION OF HIV, AIDS AND VIRAL HEPATITIS TRANSMISSION.

43 (c) DRUG ABUSE PREVENTION.

44 (d) TREATMENT FOR MENTAL ILLNESS, INCLUDING TREATMENT REFERRALS.

1 (e) TREATMENT FOR SUBSTANCE ABUSE, INCLUDING REFERRALS FOR  
2 SUBSTANCE ABUSE TREATMENT.

3 4. ACCESS TO KITS THAT CONTAIN NALOXONE HYDROCHLORIDE OR ANY OTHER  
4 OPIOID ANTAGONIST THAT IS APPROVED BY THE UNITED STATES FOOD AND DRUG  
5 ADMINISTRATION FOR THE TREATMENT OF A DRUG OVERDOSE, OR REFERRALS TO  
6 PROGRAMS THAT PROVIDE ACCESS TO NALOXONE HYDROCHLORIDE OR ANY OTHER OPIOID  
7 ANTAGONIST THAT IS APPROVED BY THE UNITED STATES FOOD AND DRUG  
8 ADMINISTRATION FOR THE TREATMENT OF A DRUG OVERDOSE.

9 5. FOR EACH INDIVIDUAL WHO REQUESTS SERVICES, PERSONAL  
10 CONSULTATIONS FROM A PROGRAM EMPLOYEE OR VOLUNTEER CONCERNING MENTAL  
11 HEALTH OR ADDICTION TREATMENT, AS APPROPRIATE.

12 C. A PROGRAM ESTABLISHED PURSUANT TO THIS SECTION SHALL DEVELOP  
13 STANDARDS FOR THE EXCHANGE OF NEEDLES AND HYPODERMIC SYRINGES BASED ON  
14 SCIENTIFIC EVIDENCE AND BEST PRACTICES. THE NUMBER OF NEEDLES AND  
15 HYPODERMIC SYRINGES PROVIDED THROUGH A PROGRAM SHALL BE EQUIVALENT TO THE  
16 NUMBER OF RETURNED NEEDLES AND HYPODERMIC SYRINGES RECEIVED THROUGH THE  
17 PROGRAM.

18 D. A COUNTY BOARD OF SUPERVISORS OR A GOVERNING BODY OF A  
19 MUNICIPALITY MAY REQUEST THAT THE DIRECTOR OF THE DEPARTMENT OF HEALTH  
20 SERVICES DECLARE A PUBLIC HEALTH EMERGENCY PURSUANT TO SECTION 36-791 IF  
21 THERE IS REASON TO BELIEVE THAT THERE IS AN OUTBREAK OF AN INFECTIOUS  
22 DISEASE THAT IS BEING SPREAD BY THE SHARING OF NEEDLES. THE REQUEST SHALL  
23 INCLUDE DATA AND JUSTIFICATION FOR THE REQUEST AND MAY INCLUDE INFORMATION  
24 FROM LAW ENFORCEMENT, HEALTH CARE INSTITUTIONS AND ANY OTHER RELEVANT  
25 SOURCE. IF THE DEPARTMENT OF HEALTH SERVICES RECEIVES A REQUEST TO  
26 DECLARE A PUBLIC HEALTH EMERGENCY PURSUANT TO SECTION 36-791, THE DIRECTOR  
27 SHALL APPROVE OR DENY THE DECLARATION REQUEST OR REQUEST ADDITIONAL  
28 INFORMATION WITHIN TEN CALENDAR DAYS AFTER THE DATE THE DECLARATION  
29 REQUEST IS SUBMITTED. IF ADDITIONAL INFORMATION IS REQUESTED BY THE  
30 DIRECTOR AND IS PROVIDED BY THE COUNTY OR MUNICIPALITY, THE DIRECTOR SHALL  
31 APPROVE OR DENY THE DECLARATION REQUEST WITHIN TEN CALENDAR DAYS AFTER  
32 RECEIVING THE ADDITIONAL INFORMATION. A PUBLIC HEALTH EMERGENCY DECLARED  
33 PURSUANT TO A REQUEST UNDER THIS SUBSECTION MAY REMAIN IN EFFECT FOR NOT  
34 MORE THAN ONE YEAR AFTER THE DATE THE PUBLIC HEALTH EMERGENCY IS DECLARED.  
35 THE DIRECTOR MAY RENEW THE DECLARATION OF THE PUBLIC HEALTH EMERGENCY ON  
36 THE REQUEST OF THE COUNTY BOARD OF SUPERVISORS OR THE GOVERNING BODY OF  
37 THE MUNICIPALITY THAT REQUESTED THE INITIAL DECLARATION.

38 E. FOR THE PURPOSES OF THIS SECTION, "QUALIFIED ENTITY" MEANS ANY  
39 OF THE FOLLOWING:

- 40 1. A COUNTY HEALTH DEPARTMENT.
- 41 2. A MUNICIPALITY THAT OPERATES A PROGRAM WITHIN THE BOUNDARIES OF  
42 THE MUNICIPALITY.
- 43 3. A NONPROFIT ORGANIZATION THAT PROMOTES SCIENTIFICALLY PROVEN  
44 WAYS OF MITIGATING HEALTH RISKS ASSOCIATED WITH DRUG USE AND HAS BEEN  
45 APPROVED TO OPERATE THE PROGRAM BY AN OFFICIAL ACTION OF A LOCAL HEALTH

1 DEPARTMENT, A COUNTY BOARD OF SUPERVISORS OR THE GOVERNING BODY OF A  
2 MUNICIPALITY FOR THE OPERATION OF A PROGRAM WITHIN THE BOUNDARIES OF THE  
3 MUNICIPALITY.

4 36-795.01. Immunity

5 A. NOTWITHSTANDING TITLE 13, CHAPTER 34, AN EMPLOYEE, VOLUNTEER OR  
6 PARTICIPANT OF A PROGRAM ESTABLISHED PURSUANT TO SECTION 36-795 MAY NOT BE  
7 CHARGED WITH OR PROSECUTED FOR POSSESSION OF ANY OF THE FOLLOWING:

8 1. A NEEDLE, HYPODERMIC SYRINGE OR OTHER INJECTION SUPPLY ITEM  
9 OBTAINED FROM OR RETURNED TO A PROGRAM ESTABLISHED PURSUANT TO SECTION  
10 36-795.

11 2. A RESIDUAL AMOUNT OF A CONTROLLED SUBSTANCE CONTAINED IN A USED  
12 NEEDLE, USED HYPODERMIC SYRINGE OR USED INJECTION SUPPLY ITEM OBTAINED  
13 FROM OR RETURNED TO A PROGRAM ESTABLISHED PURSUANT TO SECTION 36-795.

14 B. SUBSECTION A OF THIS SECTION APPLIES ONLY IF THE PERSON CLAIMING  
15 IMMUNITY PROVIDES WRITTEN VERIFICATION THAT A NEEDLE, HYPODERMIC SYRINGE  
16 OR OTHER INJECTION SUPPLY ITEM WAS OBTAINED FROM A NEEDLE AND HYPODERMIC  
17 SYRINGE EXCHANGE PROGRAM ESTABLISHED PURSUANT TO SECTION 36-795.