

A Harmful Law: How Iowa’s Drug Paraphernalia Law Is Stymieing Harm Reduction Efforts

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ABSTRACT: Syringe service programs (“SSPs”) and drug-checking equipment such as fentanyl test strips are powerful tools to respond to the opioid epidemic. SSPs distribute sterile needles and other harm reduction supplies to decrease the spread of diseases. They also offer linkages to treatment facilities. Drug-checking equipment allows people to know whether a substance is adulterated with potent substances, such as fentanyl. Under Iowa’s drug paraphernalia law, Iowa Code section 124.414, both SSPs and drug-checking equipment are prohibited. This Note argues that Iowa should amend its drug paraphernalia law to expressly allow SSPs and drug-checking equipment. This Note also argues that Iowa should fund these harm reduction resources and proactively lower barriers to accessing them.

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INTRODUCTION

Although humans have been using opium for pain relief since at least “the seventh century BC,”¹ the United States has been experiencing a major crisis with opioid use since the 1990s.² Opioids “derive from, or mimic, natural substances found in the opium poppy plant” to relieve pain,³ but due to the way opioids affect the brain, they can be highly addictive and potentially cause an overdose.⁴ Between 1999 and 2023, opioid use killed over 800,000 Americans,⁵ and in 2024 alone, an estimated 54,743 people died from opioid-related overdoses.⁶ This has had a major effect on the country’s health, with opioid use significantly contributing to America’s decreasing life expectancy.⁷ One study “estimate[d] that 3.1 million years of life were lost to opioid overdoses in the US in 2022 alone.”⁸ Averaged out, that is a cost of approximately 38 years of life per person.⁹ In addition to overdoses, opioid use can lower the quality of life for people who use drugs (“PWUD”) and people who inject drugs (“PWID”)¹⁰ and interfere with their ability to

1. JOHN H. HALPERN & DAVID BLISTEIN, *OPIUM: HOW AN ANCIENT FLOWER SHAPED AND POISONED OUR WORLD* 9 (2020).

2. JOHNATHAN H. DUFF, WEN W. SHEN, LIANA W. ROSEN & JOANNA R. LAMPE, *CONG. RSCH. SERV.*, IF12260, *THE OPIOID CRISIS IN THE UNITED STATES: A BRIEF HISTORY* 1 (2022).

3. *Opioids*, JOHNS HOPKINS MED., <https://www.hopkinsmedicine.org/health/treatment-tests-and-therapies/opioids> [<https://perma.cc/K9QS-CD3T>].

4. Mayo Clinic Staff, *How Opioid Use Disorder Occurs*, MAYO CLINIC (July 20, 2024), <https://www.mayoclinic.org/diseases-conditions/prescription-drug-abuse/in-depth/how-opioid-addiction-occurs/art-20360372> [<https://perma.cc/F9ZC-JWAA>].

5. *Understanding the Opioid Overdose Epidemic*, CTRS. FOR DISEASE CONTROL & PREVENTION (June 9, 2025), <https://www.cdc.gov/overdose-prevention/about/understanding-the-opioid-overdose-epidemic.html> [<https://perma.cc/9G6W-9EKV>].

6. Robyn Oster, *Overdose Deaths Plummet in 2024*, P’SHIP TO END ADDICTION (May 2025), <https://drugfree.org/drug-and-alcohol-news/overdose-deaths-plummet-in-2024> [<https://perma.cc/T2F9-4CQM>].

7. Anne H. Hébert & Alison L. Hill, *Impact of Opioid Overdoses on US Life Expectancy and Years of Life Lost, by Demographic Group and Stimulant Co-Involvement: A Mortality Data Analysis from 2019 to 2022*, *LANCET REG’L HEALTH – AMS*, 7 (June 17, 2024), <https://www.thelancet.com/action/showPdf?pii=S2667-193X%2824%2900140-6> [<https://perma.cc/B9RU-3MZM>].

8. *Id.* at 5.

9. *Id.* at 7.

10. A note on language: This Note will use person-first language, such as people who use drugs (“PWUD”) and people who inject drugs (“PWID”), instead of terms like “addict” or “drug abuser.” According to the Centers for Disease Control and Prevention (“CDC”), language that ties substance use disorders to an individual’s identity can contribute to stigma. *Stigma: Beyond the*

productively participate in economic activities.¹¹ All of this acts as a huge drag on the U.S. economy, “cost[ing] Americans an estimated \$2.7 trillion” in 2023, “equivalent to 9.7 percent of GDP.”¹²

Fortunately, there are effective evidence-based tools to respond to the opioid epidemic. Specifically, syringe service programs (“SSPs”) and drug-checking equipment such as fentanyl test strips (“FTS”) can decrease the harms associated with substance use.¹³ SSPs distribute sterile injection equipment to reduce the spread of diseases and provide access to other substance use resources.¹⁴ Drug-checking equipment allows PWUD to test substances for potentially deadly adulterants before ingesting them.¹⁵ These tools, however, are not available in Iowa because Iowa Code section 124.414 classifies them as drug paraphernalia.¹⁶

To lessen the harmful impact of the opioid epidemic, this Note argues that Iowa should amend Section 124.414 to expressly allow SSPs and drug-checking equipment. In Part I, this Note explains the history of the opioid epidemic and drug paraphernalia laws in the United States. Part II discusses the effects of Section 124.414 on access to harm reduction services and addresses why Iowa has not amended the law. Part III advocates for Iowa to amend its law in a way that is conducive to establishing legal access to SSPs and drug-checking equipment. Finally, this Note concludes that Iowa needs a more compassionate response to the opioid epidemic.

I. THE OPIOID EPIDEMIC AND PARAPHERNALIA LAWS

Due to the opioid epidemic’s significant impact on the health and safety of Americans, states and the federal government have implemented strategies to deal with its effects. This Part provides information about the opioid epidemic and drug paraphernalia laws in the United States. It shows the origin and path of the epidemic and explains how Iowa is currently addressing the

Numbers, CDC (Apr. 2, 2024), <https://www.cdc.gov/stop-overdose/stigma-reduction/stigma-beyond-the-numbers.html> [<https://perma.cc/P8PZ-5C5H>]. This Note applies to both PWUD generally and PWID when it discusses syringe access.

11. Hébert & Hill, *supra* note 7, at 8.

12. *The Staggering Cost of the Illicit Opioid Epidemic in the United States*, WHITE HOUSE (Mar. 26, 2025), <https://www.whitehouse.gov/articles/2025/03/the-staggering-cost-of-the-illicit-opioid-epidemic-in-the-united-states> [<https://perma.cc/W7TD-GTSZ>] (“Of this total cost, 41 percent (\$1.1 trillion) is attributed to deaths, 49 percent (\$1.34 trillion) to lost quality of life, and 10 percent (\$277 billion) to other costs such as health care, reduced labor productivity, and crime-related expenses.”). The money is valued in terms of its worth in December 2024. *Id.*

13. *See infra* Section II.B.

14. *Strengthening Syringe Services Programs (SSPs)*, CDC (Mar. 20, 2024), <https://www.cdc.gov/hepatitis-syringe-services/php/about/index.html> [<https://perma.cc/K2WE-YP55>].

15. *What You Can Do to Test for Fentanyl*, CDC (Apr. 2, 2024), <https://www.cdc.gov/stop-overdose/safety/index.html> [<https://perma.cc/5VM6-RTGC>].

16. *See infra* Part II.

issue. The Part then discusses the historical context of drug paraphernalia laws in the country and how they decrease access to SSPs and drug-checking equipment.

A. THE OPIOID EPIDEMIC IN THE UNITED STATES

The Centers for Disease Control (“CDC”) defines opioids as “natural or synthetic chemicals that bind to receptors in your brain or body to reduce the intensity of pain signals reaching the brain.”¹⁷ They include both painkillers that doctors legally prescribe and illegal drugs, such as heroin.¹⁸ Repeated use of opioids can increase a person’s tolerance, meaning the person needs to increase the level or frequency of opioid doses to feel the same effects.¹⁹ In addition to increased tolerance, opioid use can result in dependence, when the brain’s neurons change to the point where they need the drug to function properly.²⁰ Opioid tolerance and dependence increase the risk of Opioid Use Disorder (“OUD”),²¹ which “is a complex illness characterized by compulsive use of opioid drugs even when the person wants to stop, or when using the drugs negatively affects the person’s physical and emotional well-being.”²² Opioid use can lead to an overdose when too much of the substance overwhelms the brain and interferes with the body’s ability to breathe.²³ This cuts off the brain’s oxygen supply, potentially causing a coma or permanent brain damage.²⁴ If left untreated, an opioid overdose can lead to death.²⁵

This Section looks at the United States’ recent history with opioids by examining the four waves of the opioid epidemic. It then examines how Iowa is responding to the opioid epidemic. Finally, the Section discusses the history of drug paraphernalia laws in the United States and their effects on access to SSPs and drug-checking equipment.

1. The Four Waves of the Opioid Epidemic

The history of the opioid epidemic in the United States is divided into four waves.²⁶ The first wave lasted from the late 1990s to 2010 and resulted

17. *About Prescription Opioids*, CDC (June 10, 2025), <https://www.cdc.gov/overdose-prevention/about/prescription-opioids.html> [<https://perma.cc/33HW-SHJH>].

18. *See id.*

19. *Prescription Opioids DrugFacts*, NAT’L INST. ON DRUG ABUSE (June 2021), <https://nida.nih.gov/publications/drugfacts/prescription-opioids> [<https://perma.cc/QKT3-VNK7>].

20. *Id.*

21. *Preventing Opioid Use Disorder*, CDC (May 8, 2024), <https://www.cdc.gov/overdose-prevention/prevention/preventing-opioid-use-disorder.html> [<https://perma.cc/DDQ4-STUA>].

22. *Opioid Use Disorder*, JOHNS HOPKINS MED., <https://www.hopkinsmedicine.org/health/conditions-and-diseases/opioid-use-disorder> [<https://perma.cc/9CFF-MFRE>].

23. *About Prescription Opioids*, *supra* note 17.

24. *Prescription Opioids DrugFacts*, *supra* note 19.

25. *Id.*

26. *See Understanding the Opioid Overdose Epidemic*, *supra* note 5 (discussing the first three waves); Lynn Arditi, *Stimulant Users Caught Up in Fatal ‘Fourth Wave’ of Opioid Epidemic*, NPR (July 9, 2024, 2:53 PM), <https://www.npr.org/sections/shots-health-news/2024/07/09/nx-1-50152>

from the overprescription of opioids.²⁷ For much of the twentieth century, the medical community was reluctant to use opioids for pain treatment; however, this attitude started to change in the 1980s and 1990s.²⁸ Members of the medical community began to question the disinclination of medical providers to use opioids for “chronic non-cancer[-related] pain treatment” and in adequate doses.²⁹ In 1995, the American Pain Society, a medical advocacy organization, implemented its “pain as the fifth vital sign” initiative to promote better treatment and evaluation of patients’ pain symptoms.³⁰ Officials in government supported this initiative, and soon after it was announced, the Veterans Health Administration promulgated a toolkit instructing its medical providers to ask patients about their levels of pain more frequently.³¹ In 2000, The Joint Commission (“TJC”), an independent nonprofit that sets standards for health care organizations,³² instituted pain management standards for organizations which mandated physicians “to provide adequate pain control.”³³ TJC pressured hospital administration to meet these benchmarks or risk losing federal funding.³⁴ As a result, physicians became more eager and willing to use opioids for the treatment of pain.³⁵ As one scholar put it, “The culture change, driven by intent to ensure access to pain relief, had opened the floodgates to the current opioid climate.”³⁶

Pharmaceutical companies also played a large role in causing the first wave of the opioid epidemic through aggressive marketing.³⁷ Purdue Pharma’s marketing of OxyContin, a semi-synthetic opioid that the company introduced in 1996, provides the most well-known example of this.³⁸ Purdue Pharma promoted OxyContin by hosting all-expenses-paid symposia for members of the medical community, distributing branded merchandise, and consciously “target[ing] the physicians who were the highest prescribers for opioids across the country.”³⁹ In its promotional efforts, the company consistently downplayed

43/stimulant-users-meth-cocaine-coke-in-overdose-fourth-wave-opioid-epidemic [https://perma.cc/JGK5-L5EQ] (discussing the fourth wave).

27. See *Understanding the Opioid Overdose Epidemic*, *supra* note 5.

28. Mark R. Jones et al., *A Brief History of the Opioid Epidemic and Strategies for Pain Medicine*, 7 PAIN & THERAPY 13, 15 (2018).

29. *Id.*

30. *Id.*

31. Jeremiah Fues, *The Fifth Vital Sign: An Overview of the Opioid Crisis and Its Effects on Veterans*, 7 STETSON J. ADVOC. & L. 124, 131, 133 (2020).

32. *Facts About the Joint Commission*, JOINT COMM’N, <https://www.jointcommission.org/who-we-are/facts-about-the-joint-commission> [https://perma.cc/P8B2-L39K].

33. Jones et al., *supra* note 28, at 16.

34. *Id.*

35. *Id.*

36. *Id.*

37. *See id.*

38. See Art Van Zee, *The Promotion and Marketing of OxyContin: Commercial Triumph, Public Health Tragedy*, 99 AM. J. PUB. HEALTH 221, 221 (2009).

39. *Id.* at 221–22.

the drug's risk of addiction, eventually leading several company executives to plead guilty to the criminal charge of misbranding.⁴⁰ As a result of its marketing, Purdue Pharma significantly contributed to a dramatic increase in the number of opioid prescriptions and earned billions of dollars.⁴¹ And researchers have only recently begun to comprehend the extent of the campaign's effects. To measure how much Purdue Pharma contributed to the opioid epidemic, one study compared states that used triplicate prescription monitoring programs, that dissuaded Purdue Pharma from marketing OxyContin, to states that did not use such programs.⁴² The study estimated that "states would have had an average of 34% fewer drug overdose deaths and 45% fewer opioid overdose deaths from 1996 to 2017 if they had been triplicate states at the time of OxyContin's launch."⁴³

The pharmaceutical industry's role in causing the first wave of the opioid epidemic has led to a significant amount of litigation as many state and local governments have sued Purdue Pharma and other pharmaceutical companies for their deceptive marketing practices.⁴⁴ Although the Supreme Court struck down Purdue Pharma's original settlement agreement in 2024, the company reached a \$7.4 billion agreement with all fifty states, the District of Columbia, and U.S. territories in June 2025.⁴⁵ Other companies such as Johnson & Johnson, Teva Pharmaceuticals, Walmart, and Walgreens have already started paying settlement funds to states and localities.⁴⁶ The predicted total payout of all opioid settlements is approximately \$50 billion,⁴⁷ making it the second-biggest settlement in U.S. history after the tobacco settlement.⁴⁸

40. *Id.* at 223.

41. *Id.*

42. Abby Alpert, William N. Evans, Ethan M.J. Lieber & David Powell, *Origins of the Opioid Crisis and Its Enduring Impacts*, 137 Q.J. ECON. 1139, 1142-43 (2022).

43. *Id.* at 1143.

44. KFF Health News, *What You Need to Know About the Opioid Settlement Funds*, YOUTUBE (June 20, 2023), <https://www.youtube.com/watch?v=YZf8fgGLsJM&t=32s> [<https://perma.cc/VgJT-SPKB>]; see, e.g., Complaint at 1-2, *Maryland v. Teva Pharm. Indus., Ltd.*, No. C-10-CV-24-000140 (Md. Cir. Ct. Feb. 28, 2024) (accusing Teva Pharmaceuticals of downplaying the risk of its prescription fentanyl products).

45. Brian Mann, *Purdue Pharma, Sacklers Reach New \$7.4 Billion Opioid Settlement*, NPR (June 16, 2025, 2:45 PM), <https://www.npr.org/2025/06/16/nx-s1-5435318/purdue-pharma-sackler-s-reach-new-7-4-billion-opioid-settlement> [<https://perma.cc/U8YZ-UEZ6>].

46. KFF Health News, *supra* note 44.

47. Brian Mann, Aneri Pattani & Carrie Feibel, *Supreme Court Overturns Opioid Settlement with Purdue Pharma that Shielded Sacklers*, NPR (June 29, 2024, 7:00 AM), <https://www.npr.org/section/s/shots-health-news/2024/06/29/nx-s1-5021798/supreme-court-overturns-opioid-settlement-with-purdue-pharma-that-shielded-sacklers-supreme-court-overturns-sackler-settlement-delaying-funds-meant-for-communities-battling-opioids> [<https://perma.cc/LBC2-9PFQ>].

48. KFF Health News, *supra* note 44. In 1998, tobacco companies and state governments reached a 25-year settlement agreement worth \$246 billion. Colleen Walsh, *Learning the Hard Way*, HARV. GAZETTE (Aug. 4, 2021), <https://news.harvard.edu/gazette/story/2021/08/applyin-g-lessons-learned-from-the-tobacco-settlement-to-opioid-negotiations> [<https://perma.cc/X6M8-2LBH>].

The second wave of the opioid epidemic lasted from 2010 to 2016 and involved a substantial increase in heroin-involved overdose deaths.⁴⁹ When the states cracked down on the use of prescribed opioids, it contributed to the demand for heroin as an alternative painkiller.⁵⁰ For instance, in states that mandated the use of a prescription drug monitoring program—a program that tracks and shares information about patients' prescriptions between law enforcement, medical personnel, and pharmacies⁵¹—it corresponded with 50.1 percent more heroin overdose deaths.⁵² Also during this time, the predominant supply of heroin shifted from South America to Mexico, decreasing the drug's cost.⁵³ As a result, heroin overtook prescription opioids as the leading cause of opioid-involved overdose deaths in 2015.⁵⁴

The third wave of the opioid epidemic began in 2013 and was defined by a dramatic increase in synthetic opioid overdose deaths.⁵⁵ In 2016, synthetic opioids such as fentanyl overtook heroin to become the leading cause of overdose deaths in the United States.⁵⁶ According to the CDC, “[fentanyl] is 50 to 100 times more potent than morphine.”⁵⁷ It can either be made as a pharmaceutical opioid or illicitly;⁵⁸ however, illicit fentanyl rather than the pharmaceutical version contributes to most fentanyl-related overdoses.⁵⁹ Most of the illicit fentanyl in the United States is produced by criminal organizations in Mexico with “chemical precursors from China.”⁶⁰ Suppliers often mix fentanyl with other substances to cut down on costs because fentanyl's potency allows suppliers to traffic less drugs while maintaining their effects.⁶¹ This adulteration increases the risk of an overdose when a person

49. See DUFF ET AL., *supra* note 2.

50. Diwas KC, TI Tongil Kim & Jiayi Liu, *Electronic Prescription Monitoring and the Opioid Epidemic*, 31 PROD. OPERATIONS MGMT. 4057, 4065–66 (2022).

51. *Id.* at 4057.

52. *Id.* at 4065.

53. DUFF ET AL., *supra* note 2.

54. *Id.*

55. *Understanding the Opioid Overdose Epidemic*, *supra* note 5.

56. DUFF ET AL., *supra* note 2.

57. *Fentanyl*, CDC (June 9, 2025), <https://www.cdc.gov/overdose-prevention/about/fentanyl.html> [<https://perma.cc/8PCR-L33Q>].

58. *Id.*

59. *Understanding the Opioid Overdose Epidemic*, *supra* note 5.

60. SHELBY B. SENGER & CLARE RIBANDO SEELKE, CONG. RSCH. SERV., IF10400, *ILLICIT FENTANYL AND MEXICO'S ROLE 2* (2025). In October 2024, the United States Department of Justice unsealed indictments “against eight China-based chemical companies and eight employees.” Press Release, Off. of Pub. Affs., U.S. Dep’t of Just., *China-Based Chemical Manufacturing Companies and Employees Indicted for Alleged Fentanyl Manufacturing and Distribution* (Oct. 24, 2024), <https://www.justice.gov/opa/pr/china-based-chemical-manufacturing-companies-and-employees-indicted-alleged-fentanyl> [<https://perma.cc/J94L-PMB9>]. The charges include attempted distribution of chemicals used to make fentanyl. *Id.*

61. Kavita Babu, *What Is Fentanyl and Why Is It Behind the Deadly Surge in US Drug Overdoses?: A Medical Toxicologist Explains*, UMASS CHAN MED. SCH. (May 10, 2022), <https://www.umassmed.e>

does not know when a substance they are using is laced with fentanyl.⁶² This is because fentanyl cannot be detected without the aid of equipment.⁶³ According to one researcher, what makes fentanyl so dangerous is not necessarily its potency, but rather how much the potency fluctuates in the illicit market.⁶⁴ He compares consuming fentanyl to “ordering a mixed drink in a bar” that could contain between one and seventy shots, and the only way to find out how many is to drink it.⁶⁵

Scholars of the opioid epidemic believe that we are currently in a fourth wave, in which overdose deaths from polysubstance use involving stimulants and fentanyl are increasing.⁶⁶ Polysubstance use occurs when a person takes more than one substance, knowingly or unknowingly.⁶⁷ Suppliers are driving the fourth wave by mixing cocaine and methamphetamines with fentanyl.⁶⁸ This poses new challenges in responding to the opioid epidemic. For one, if a person who uses stimulants does not regularly use opioids, their tolerance of the drug will be lower, increasing the risk that an overdose will occur.⁶⁹ Many people who use stimulants also do not consider themselves at risk of an opioid overdose and are thus less likely to be prepared in responding to one.⁷⁰ Finally, this wave has disproportionately affected Black and African Americans, with racial disparities in health care exacerbating lack of awareness of the problem in that community.⁷¹ Thus, as opioid use has evolved over the past three decades, states have continued to face challenges in adapting their response.

2. Iowa’s Response to the Opioid Epidemic

Like the rest of the United States, the opioid epidemic has impacted Iowa. Although Iowa ranked low in illicit substance use and almost the lowest in overdose deaths compared to other states in 2023,⁷² it still faces unique challenges in responding to the epidemic. For instance, Iowa’s rural nature

du/news/news-archives/2022/05/what-is-fentanyl-and-why-is-it-behind-the-deadly-surge-in-us-drug-overdoses [https://perma.cc/F6PU-LZ5U].

62. *Id.*

63. *The Facts About Fentanyl*, CAL. DEP’T PUB. HEALTH (May 27, 2025), <https://www.cdph.ca.gov/Programs/CCDC/PHP/sapb/pages/fentanyl.aspx> [https://perma.cc/J67S-UDJZ].

64. Arditi, *supra* note 26.

65. *Id.*

66. *Id.*

67. *Polysubstance Use Facts*, CDC (Apr. 2, 2024), <https://www.cdc.gov/stop-overdose/caring/polysubstance-use.html> [https://perma.cc/726N-3A9N].

68. Arditi, *supra* note 26.

69. *Id.*

70. *Id.*

71. Nadine Yousif, *How the Fentanyl Crisis’ Fourth Wave Has Hit Every Corner of the US*, BBC (Sept. 17, 2023), <https://www.bbc.com/news/world-us-canada-66826895> [https://perma.cc/XT9-W62F].

72. *Drug Information*, IOWA DEP’T PUB. SAFETY, <https://dps.iowa.gov/bureaus-iowa-department-public-safety/iowa-office-drug-control-policy/drug-information> [https://perma.cc/T4LV-EgB9].

may increase barriers to effectively address the opioid epidemic. According to the Injury and Prevention Research Center at the University of Iowa, “[r]ural states, such as Iowa, face unique challenges in the opioid epidemic that include a lack of physicians trained to provide medication assisted treatment, increased distances to treatment clinics, higher rates of manual labor jobs, and less social support.”⁷³ Iowa has also seen an explosion in counterfeit pills in the last few years, going from no reports of fake pills in 2020 to over 100,000 in 2024.⁷⁴ In that year, over half of all counterfeit pills submitted for analysis contained fentanyl.⁷⁵ The substance has contributed to many overdose deaths in Iowa. Of the 238 Iowans who died from opioid-related deaths in 2023, eighty-one percent of those deaths involved illicit fentanyl.⁷⁶ Although preliminary data show that overdose deaths in Iowa have decreased overall by approximately seven percent between April 2024 and April 2025, 422 people still died from an overdose within that period.⁷⁷

The state government has responded to the opioid epidemic in several different ways, with much of the effort geared toward targeting the supply of opioids. For example, Iowa has a prescription monitoring program run by the Iowa Board of Pharmacy to prevent prescription drug diversion and doctor shopping.⁷⁸ Iowa has also adopted a more punitive approach to fentanyl. In its 2023 legislative session, Iowa passed into law House File 595, a bill that significantly increased the penalties for the manufacture, delivery, or possession of fentanyl.⁷⁹ In 2024, the Iowa House approved legislation that would make an individual who supplied another person with fentanyl liable for first-degree murder if the drug led to the person’s death, regardless of whether the supplier knew the substance contained fentanyl.⁸⁰ However, the Iowa Senate did not pass the bill.⁸¹

73. INJ. PREVENTION RSCH. CTR., UNIV. OF IOWA, POLICY AND PROGRAM RECOMMENDATIONS TO REDUCE OVERDOSE DEATHS IN RURAL IOWA 3 (2020).

74. OFF. OF DRUG CONTROL POL’Y, IOWA DEP’T OF PUB. SAFETY, IOWA DRUG CONTROL STRATEGY & DRUG USE PROFILE 31 (2025) [hereinafter 2025 IOWA DRUG CONTROL STRATEGY].

75. *Id.*

76. *Id.*

77. *Provisional Drug Overdose Death Counts*, CDC (Sept. 17, 2025), <https://www.cdc.gov/nchs/nvss/vsr1/drug-overdose-data.htm> [<https://perma.cc/N3KCJJTX>].

78. 2025 IOWA DRUG CONTROL STRATEGY, *supra* note 74, at 10.

79. Katie Akin, Stephen Gruber-Miller & Galen Bacharier, *Gov. Kim Reynolds Signs Law to Crack Down on Iowa’s Fentanyl Epidemic. Here’s What It Will Do*, DES MOINES REG. (May 16, 2023, 4:09 PM), <https://www.desmoinesregister.com/story/news/politics/2023/05/16/iowa-increases-criminal-penalties-for-fentanyl-amid-rising-overdoses-illegal-drugs-cdc-naloxone/70204946007> (on file with the *Iowa Law Review*); H. File 595, 90th Gen. Assemb., Reg. Sess. (Iowa 2023).

80. H. File 2576, 90th Gen. Assemb., Extra Sess. (Iowa 2023); Robin Opsahl, *Iowa House Passes ‘Extreme’ Penalty for Fentanyl Deaths*, IOWA CAP. DISPATCH (Mar. 4, 2024, 7:50 PM), <https://iowacapitaldispatch.com/2024/03/04/iowa-house-passes-extreme-penalty-for-fentanyl-deaths> [<https://perma.cc/DTS4-XZP6>].

81. *See* S. JOURNAL, 90th Gen. Assemb., Extra Sess. 611 (Iowa 2024).

Iowa has also worked to address the demand side of the epidemic by increasing access to treatment and harm reduction resources. Harm reduction involves decreasing the negative consequences of substance use by treating PWUD with compassion, not judgment.⁸² In contrast to coercive and punitive drug strategies, harm reduction is a social justice movement that focuses on the rights of PWUD.⁸³ For example, in 2018, the Iowa legislature passed a Good Samaritan law where law enforcement will not arrest someone for simple drug possession if he or she calls 911 to report a drug overdose.⁸⁴ The state has also made efforts to increase naloxone access, an overdose-reversing medication. In 2020, Iowa's prescription monitoring program, the Iowa Board of Pharmacy, and the Iowa Department of Health and Human Services made naloxone free at community pharmacies in Iowa.⁸⁵ Additionally, Iowa has worked to decrease barriers and increase access to medications that treat OUD.⁸⁶ Iowa's drug paraphernalia law, however, has diminished the full potential of these initiatives.

B. DRUG PARAPHERNALIA LAWS AND HARM REDUCTION

Drug paraphernalia laws in the United States have their roots at the beginning of the War on Drugs in the 1970s,⁸⁷ a movement favoring punishment for substance use instead of treatment.⁸⁸ Drug paraphernalia are items "used to produce, conceal, and consume illicit drugs."⁸⁹ Whether something is drug paraphernalia depends on how the person intends to use the item.⁹⁰ Thus, drug paraphernalia is not restricted to items commonly

82. See *Principles of Harm Reduction*, NAT'L HARM REDUCTION COAL., <https://harmreduction.org/about-us/principles-of-harm-reduction> [<https://perma.cc/2K6D-RGRF>].

83. *Id.*

84. OFF. OF DRUG CONTROL POL'Y, IOWA DEP'T OF PUB. SAFETY, IOWA DRUG CONTROL STRATEGY & DRUG USE PROFILE 20–21 (2024) [hereinafter 2024 IOWA DRUG CONTROL STRATEGY]. Even under the Good Samaritan law, many PWUD are still reluctant to call 911. *Policy & Advocacy*, IOWA HARM REDUCTION COAL., <https://www.iowaharmreductioncoalition.org/advocacy> [<https://perma.cc/ALL5-LWGL>]. Immunity only applies once and does not apply to people with active warrants or the person experiencing the overdose. *Id.* The caller must also be willing to provide their name and stay at the scene. *Id.*

85. 2024 IOWA DRUG CONTROL STRATEGY, *supra* note 84, at 20.

86. 2025 IOWA DRUG CONTROL STRATEGY, *supra* note 74, at 12.

87. Ashleigh Dennis, *Racism in Local Drug Paraphernalia Laws: An Argument for Repeal*, NETWORK FOR PUB. HEALTH L. (Oct. 28, 2024), <https://www.networkforphl.org/news-insights/racism-in-local-drug-paraphernalia-laws-an-argument-for-repeal> [<https://perma.cc/8Q7M-X9LL>].

88. *War on Drugs*, ENCYC. BRITANNICA (Sept. 22, 2025), <https://www.britannica.com/topic/war-on-drugs> [<https://perma.cc/RZE9-PVRQ>].

89. *Drug Paraphernalia Fast Facts*, NAT'L DRUG INTEL. CTR. (Sept. 2003), <https://www.justice.gov/archive/ndic/pubs6/6445/index.htm> [<https://perma.cc/ZE5K-KFZ8>].

90. Thomas Regnier, "Civilizing" Drug Paraphernalia Policy: Preserving Our Free Speech and Due Process Rights While Protecting Children, 14 N.Y.U. J. LEGIS. & PUB. POL'Y 115, 119 (2011).

associated with substance use such as pipes and bongs, but also includes everyday items such as spoons and scales.⁹¹

The earliest drug paraphernalia laws in the United States originated in the mid-1970s and mainly addressed needles and pipes for heroin.⁹² State and local governments enacted these laws in response to a loophole in the Controlled Substances Act (“CSA”), which did not originally criminalize materials that facilitate illicit substance use.⁹³ During the 1970s, officials in the U.S. Department of Justice (“DOJ”) were also concerned about drug paraphernalia, fearing that their ubiquity promoted substance use among children.⁹⁴ However, the DOJ believed that the states and localities should lead the efforts against drug paraphernalia.⁹⁵ Accordingly, in 1979, the Drug Enforcement Administration (“DEA”) created the Model Drug Paraphernalia Act (“1979 Act”) to guide the states in drafting their own drug paraphernalia laws.⁹⁶ The 1979 Act broadly defined drug paraphernalia as equipment or materials “intended for use, or designed for use[] in . . . manufacturing, . . . producing, processing, preparing, testing, analyzing, . . . injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of [the CSA].”⁹⁷ Within ten years, a majority of the states and the District of Columbia used language from the 1979 Act to create their own drug paraphernalia statutes.⁹⁸

The language of many of these state statutes encompassed prohibitions on SSPs and drug-checking equipment such as FTS.⁹⁹ SSPs are community-based programs that give PWID access to sterile syringes and injection equipment.¹⁰⁰ Their primary purpose is to prevent diseases such as HIV, hepatitis C, and endocarditis that can be spread or caused by unsterile injection equipment.¹⁰¹ SSPs also provide participants with a wide range of medical services, including testing for diseases, referrals to substance use treatment, vaccination, and counseling.¹⁰²

91. *Drug Paraphernalia Fast Facts*, *supra* note 89.

92. LEGIS. ANALYSIS & PUB. POL’Y ASS’N, DRUG PARAPHERNALIA: SUMMARY OF STATE LAWS 3 (2022) [hereinafter SUMMARY OF STATE LAWS], <https://legislativeanalysis.org/wp-content/uploads/2022/09/Drug-Paraphernalia-Summary-of-State-Laws-FINAL.pdf> [<https://perma.cc/ZR92-M9FG>].

93. *Id.*

94. Regnier, *supra* note 90, at 124.

95. *Id.*

96. SUMMARY OF STATE LAWS, *supra* note 92, at 3–4.

97. U.S. INT’L TRADE COMM’N, IMPORTATION OF CERTAIN DRUG PARAPHERNALIA INTO THE UNITED STATES 89 (1989).

98. SUMMARY OF STATE LAWS, *supra* note 92, at 3.

99. *Id.* at 4.

100. *Syringe Services Programs*, NAT’L INST. ON DRUG ABUSE (June 2021), <https://nida.nih.gov/research-topics/syringe-services-programs> [<https://perma.cc/FX3S-PDQC>].

101. *Strengthening Syringe Services Programs (SSPs)*, *supra* note 14.

102. *Id.*

FTS are “small strips of paper that can detect the presence of fentanyl.”¹⁰³ FTS were initially developed for detecting fentanyl in urine, though they can be used off label to check for the presence of fentanyl before ingesting a substance.¹⁰⁴ They provide rapid results that are between ninety-six and one hundred percent accurate in detecting fentanyl and can warn the tester of the presence of “at least 10 fentanyl analogs.”¹⁰⁵ FTS only measure whether a substance has fentanyl or an analog; they cannot tell the tester the level of fentanyl in the substance.¹⁰⁶ Many states have recently amended their paraphernalia laws to allow access to FTS and SSPs.¹⁰⁷ This leaves Iowa as one of four states that do not allow at least some form of drug-checking equipment and one of thirteen states that do not authorize SSPs.¹⁰⁸

II. IOWA’S DRUG PARAPHERNALIA LAW

Although Iowa enacted its drug paraphernalia law in 2000, it shares many similarities with the 1979 Act. Iowa Code section 124.414 bans the intentional manufacture, delivery, or possession of drug paraphernalia.¹⁰⁹ The law does not ban injection equipment if used for a “lawful purpose”; however, its sweeping definition of drug paraphernalia criminalizes the possession and distribution of both syringes from SSPs and drug-checking equipment.¹¹⁰ Drug-checking equipment falls under Section 124.414(1)(a)(3) as materials used to “[t]est the strength [or] effectiveness . . . of a controlled substance.”¹¹¹ Likewise, SSPs are banned under Section 124.414(1)(a)(2) as materials that

103. *What You Can Do to Test for Fentanyl*, *supra* note 15. Xylazine Test Strips (“XTS”) also exist. *Xylazine*, NAT’L INST. ON DRUG ABUSE (Sept. 2024), <https://nida.nih.gov/research-topics/xylazine> [<https://perma.cc/WH2H-RYXE>]. Xylazine is a tranquilizer that is approved for veterinary use. *Id.* While not approved for human use, it is frequently mixed with opioids illicitly. *Id.* Xylazine can be fatal at certain doses and lead to serious tissue damage. *Id.* Legalization of drug-checking equipment would apply to XTS; however, this Note will focus primarily on FTS. Much of the conversation around the legalization of drug-checking equipment in Iowa has revolved around FTS, as has a substantial amount of the literature and research on drug-checking equipment.

104. LEGIS. ANALYSIS & PUB. POL’Y, FENTANYL TEST STRIPS 1 (2021) [hereinafter FENTANYL TEST STRIPS].

105. *Id.*

106. *Id.* at 3–4.

107. *Syringe Exchange Starts a Conversation*, IOWA HARM REDUCTION COAL. (2025), <https://www.iowaharmreductioncoalition.org/syringe-exchange> [<https://perma.cc/35XT-FPNX>].

108. *See generally* THE NETWORK FOR PUB. HEALTH L., HARM REDUCTION AND OVERDOSE PREVENTION: 50-STATE SURVEY (2024), <https://www.networkforphl.org/wp-content/uploads/2024/08/2024-50-State-DCE-Fact-Sheet.pdf> [<https://perma.cc/EY4Y-36WF>] (showing that Iowa is only one of four states that do not authorize at least some form of drug-checking equipment); LEGIS. ANALYSIS & PUB. POL’Y ASS’N, SYRINGE SERVICES PROGRAMS: SUMMARY OF STATE LAWS (2025), <https://legislativeanalysis.org/wp-content/uploads/2025/04/Syringe-Services-Programs-Summary-of-State-Laws.pdf> [<https://perma.cc/RWT3-CCAG>] (showing that Iowa is one of thirteen states that do not authorize SSPs, either implicitly or explicitly).

109. IOWA CODE § 124.414 (2025).

110. *Id.*

111. *Id.*

are used to “[i]nject . . . or otherwise introduce into the human body a controlled substance.”¹¹² The law classifies a violation of Section 124.414 as a simple misdemeanor.¹¹³

This Part discusses how Section 124.414 is exacerbating the harms of the opioid epidemic in Iowa. It explains that the law creates barriers to accessing FTS and SSPs for PWUD. It then describes Section 124.414's deadly consequences for PWUD and how it puts harm reduction workers in an ethical dilemma. Finally, this Part examines the failed attempts to repeal Iowa's drug paraphernalia law and the reasons why the Iowa legislature is opposed to legalizing drug-checking equipment and SSPs.

A. EFFECTS ON HARM REDUCTION ACCESS

By banning SSPs and FTS, Section 124.414 is hampering access to harm reduction resources. For governmental entities, the law completely restricts their ability to distribute sterile syringes and FTS.¹¹⁴ For instance, in 2022, Polk County added harm reduction boxes to locations around Des Moines for PWID to use.¹¹⁵ The boxes include harm reduction equipment such as “tourniquets, cotton filters and needle disposal containers.”¹¹⁶ Even though health officials in the county want to include FTS in the kits, Section 124.414 prohibits them from doing so.¹¹⁷

Iowa's prohibition of FTS and SSPs also prevents state and local entities from accessing federal grant funding for those resources.¹¹⁸ Although the federal government previously barred federal funds from supporting SSPs, the Department of Health and Human Services can now give grants to SSPs, provided that federal funds are “not used to purchase needles.”¹¹⁹ Likewise, the CDC and the Substance Abuse and Mental Health Services Administration (“SAMHSA”) announced in 2021 that federal funds can be used to purchase FTS.¹²⁰ Thus, by preventing entities from using federal funds on FTS and

112. *Id.*

113. *Id.*

114. See, e.g., Jason Clayworth, *Fentanyl Test Strips Blocked from Iowa Harm Reduction Boxes*, AXIOS DES MOINES (Dec. 8, 2022), <https://www.axios.com/local/des-moines/2022/12/08/fentanyl-test-strips-blocked-iowa-harm-reduction-boxes> [<https://perma.cc/66EM-Yg2B>].

115. *Id.*

116. *Id.*

117. *Id.*

118. Corey S. Davis, Derek H. Carr & Elizabeth A. Samuels, *Paraphernalia Laws, Criminalizing Possession and Distribution of Items Used to Consume Illicit Drugs, and Injection-Related Harm*, 109 AM. J. PUB. HEALTH 1564, 1565 (2019).

119. *Funding for Syringe Services Programs*, CDC (Feb. 8, 2024), <https://www.cdc.gov/syringe-services-programs/php/funding/index.html> [<https://perma.cc/P2EW-8J4F>].

120. *Federal Grantees May Now Use Funds to Purchase Fentanyl Test Strips*, SAMHSA (June 6, 2024), <https://www.samhsa.gov/newsroom/press-announcements/202104070200> [<https://perma.cc/LN8U-2MPX>].

SSPs, Section 124.414 leaves millions of dollars on the table that could be used to increase the state's capacity to respond to the opioid epidemic.¹²¹

For nongovernmental entities, Section 124.414 puts them in the ethical dilemma of having to choose between denying people access to lifesaving resources or breaking the law.¹²² Some community organizations are choosing the second option. For example, Dubuque Harm Reduction, a local harm reduction organization, openly hands out harm reduction supplies, including syringes and FTS.¹²³ In doing so, the organization relies on prosecutorial discretion to not enforce Section 124.414.¹²⁴ In 2019, the organization sent a letter to the county supervisors, describing their efforts to distribute sterile syringes; however, the top prosecutor declined to file charges.¹²⁵

Even though prosecutors are not currently charging distributors of sterile syringes and FTS, it does not get rid of the problems harm reduction organizations face in their efforts to provide access to harm reduction services. Nothing is stopping a prosecutor from cracking down on unsanctioned SSPs and FTS distribution programs in the future, and the threat of criminal punishment may deter entities from distributing sterile injection equipment and FTS. Indeed, with the “tough on crime” rhetoric permeating both the state and national political environment,¹²⁶ this outcome is not out of the question. According to one journalist covering the opioid crisis during the 2024 presidential election campaign, neither Harris nor Trump promoted harm reduction strategies to respond to the opioid epidemic, focusing instead

121. See Jennifer Lubell, *Funds Will Bolster Scores of Syringe Services Programs*, AM. MED. ASS'N (Dec. 1, 2022), <https://www.ama-assn.org/delivering-care/overdose-epidemic/funds-will-bolster-scores-syringe-services-programs> [<https://perma.cc/J6VK-6XZR>]; Regina LaBelle, Tom Coderre & Rochelle Walensky, *Unlocking Federal Funding for Fentanyl Test Strips Will Save Lives*, STAT (May 4, 2021), <https://www.statnews.com/2021/05/04/fentanyl-test-strips-unlocking-federal-funding-save-lives> (on file with the *Iowa Law Review*).

122. See Katarina Sostaric, *Underground Needle Exchange Helps Iowans Who Inject Drugs*, IOWA PUB. RADIO (Jan. 25, 2018, 5:00 AM), <https://www.iowapublicradio.org/ipr-news/2018-01-25/underground-needle-exchange-helps-iowans-who-inject-drugs> [<https://perma.cc/Q743-UR5X>] (describing Iowa Harm Reduction Coalition's underground SSP).

123. Dubuque Harm Reduction, FACEBOOK (Mar. 3, 2022), <https://www.facebook.com/share/p/19ezQzrdZW> (on file with the *Iowa Law Review*).

124. Opinion, *A Jab to Iowa Lawmakers on Yet Another Failure to Allow Needle Exchanges*, DES MOINES REG. (May 22, 2019, 1:02 PM), <https://www.desmoinesregister.com/story/opinion/editorials/2019/05/22/jab-iowa-lawmakers-again-refusing-allow-needle-exchanges-canines-polk-editorial/3746772002> (on file with the *Iowa Law Review*).

125. *Iowa Group Violating Law as It Distributes Needles to Drug Users*, KCCI DES MOINES (May. 17, 2019, 7:54 AM), <https://www.kcci.com/article/iowa-group-violating-law-as-it-distributes-needles-to-drug-users/27505153> [<https://perma.cc/YF7T-2MHN>].

126. See Brienne Pfannenstiel, *Iowa Attorney General Brenna Bird at RNC: Democrats Favor 'Handouts Not Handcuffs'*, DES MOINES REG. (July 18, 2024, 2:44 PM), <https://www.desmoinesregister.com/story/news/politics/elections/2024/07/16/iowa-attorney-general-brenna-bird-gives-primetime-speech-at-republican-national-convention/74411598007> (on file with the *Iowa Law Review*) (describing how the Iowa Attorney General accused Democrats of wanting “handouts, not handcuffs”).

on law enforcement efforts and “War on Drugs” rhetoric.¹²⁷ Many addiction medicine experts see this as a public backlash to the Biden Administration’s treatment of opioids as a public health problem and fear a return to the punitive drug policies of the War on Drugs.¹²⁸ Furthermore, even if prosecutors continue to decline to enforce Section 124.414, treating substance use as a criminal activity heightens stigma among PWUD.¹²⁹ This, in turn, makes it less likely that PWUD will access harm reduction resources and other substance use services.¹³⁰

For those charged with enforcing Iowa’s drug paraphernalia law, putting public health workers under even just the threat of prosecution for distributing lifesaving harm reduction resources also raises serious ethical concerns, especially since such workers are filling critical gaps in harm reduction services that governmental entities do not offer. While punishment for violating the drug paraphernalia law is only a simple misdemeanor, people convicted of the offense can be imprisoned for up to thirty days and face hundreds of dollars in fines.¹³¹ In addition to these consequences, the stigma of a criminal conviction, even just a misdemeanor, can significantly affect employment opportunities, relationships, and the ability to find housing.¹³²

All this has led to deadly consequences for PWUD. In contrast to the national trend, overdose deaths in Iowa increased between April 2023 and April 2024.¹³³ According to an addiction medicine physician at the University of Iowa, one of the main reasons for this was Iowa’s restrictive drug

127. Hannah Harris Green, *Presidential Candidates Silent on Opioid Crisis Beyond ‘War on Drugs’ Rhetoric: It’s Easier to Point Fingers*, GUARDIAN (Nov. 3, 2024, 10:00 AM), <https://www.theguardian.com/us-news/2024/nov/03/opioid-crisis-overdoses-election-harris-trump> (on file with the *Iowa Law Review*).

128. Brian Mann, *Trump’s Promise to Fix the Fentanyl Crisis Appealed to Voters and Alarmed Experts*, NPR (Nov. 21, 2024, 8:23 AM), <https://www.npr.org/2024/11/18/nx-1-5187973/fentanyl-trump-cartels-addiction> [<https://perma.cc/PQ58-VQKY>].

129. James D. Livingston, Teresa Milne, Mei Lan Fang & Erica Amari, *The Effectiveness of Interventions for Reducing Stigma Related to Substance Use Disorders: A Systematic Review*, 107 ADDICTION 39, 40 (2011) (“Criminalization of substance-using behaviors exacerbates stigma and produces exclusionary processes that deepen the marginalization of people who use illegal substances.”).

130. *See id.* at 40–41.

131. IOWA CODE § 903.1 (2025).

132. Jonathan Minkus, *Why Shouldn’t You Accept a Misdemeanor Conviction?*, LAW OFFS. JONATHAN MINKUS (Feb. 6, 2024), <https://www.minkuscriminallaw.com/why-shouldnt-you-accept-a-misdemeanor-conviction> [<https://perma.cc/TUQ2-A4KQ>]. For a discussion of collateral consequences of criminal conviction, see Benjamin Levin, *Disentangling Safety and Accountability in Criminal Justice Policy*, 111 IOWA L. REV. 1009, 1037–42 (2026). Even an arrest can carry with it collateral consequences. *See* Eisha Jain, *Arrest Unbound*, 111 IOWA L. REV. 213, 226, 251 (2025).

133. Nick El Hajj, *Iowa Overdose Deaths Rise Despite Steep National Drop, Millions in Unspent Funds*, IOWA NEWS NOW (Oct. 4, 2024, 6:51 PM), <https://cbs2iowa.com/news/local/iowa-overdose-deaths-rise-despite-steep-national-drop-millions-in-unspent-funds> [<https://perma.cc/S6BW-655C>] (discussing how Iowa’s prohibition on FTS contributed to the state’s increase in overdose deaths in 2024).

paraphernalia law.¹³⁴ This is likely because FTS and SSPs play a critical role in responding to the harmful effects of the opioid epidemic by decreasing the risk of overdoses, preventing infectious diseases, and encouraging treatment.

Without access to FTS, people who use drugs lack a powerful tool to ensure the substance they are using does not contain fentanyl or one of its analogs. Studies have shown that many PWUD find FTS to be useful and alter their drug use behavior upon receiving a positive result for fentanyl.¹³⁵ In one study, participants changed their drug use behaviors in a variety of ways, including disposing of the batch of contaminated drugs, using smaller doses, slowing down their intake of the drug, ensuring that naloxone was nearby, and warning others about a positive fentanyl result.¹³⁶ One participant commented that FTS “opened [his] eyes” and “saved [his] life” because FTS prevented him from taking a lethal dose of a contaminated batch of drugs.¹³⁷

Without access to SSPs, Iowans are at an increased risk of infectious diseases.¹³⁸ Opioids, if injected, increase the risk of diseases, including hepatitis C and HIV, with outbreaks spreading among PWID.¹³⁹ In fact, across the United States, most new cases of hepatitis C and around 2,500 annual HIV cases result from injection drug use.¹⁴⁰ Approximately 18,000 Iowans have confirmed cases of hepatitis C.¹⁴¹ However, this number is likely much higher because researchers estimate that “half of people with [the disease] are undiagnosed.”¹⁴² Iowa also diagnoses approximately 115 cases of HIV and 75 cases of AIDS per year.¹⁴³

Tragically, many of these cases were likely preventable.¹⁴⁴ According to the CDC, “SSPs are associated with an estimated 50% reduction in HIV and

134. *Id.*

135. See, e.g., Jacqueline E. Goldman et al., *Perspectives on Rapid Fentanyl Test Strips as a Harm Reduction Practice Among Young Adults Who Use Drugs: A Qualitative Study*, HARM REDUCTION J. 8 (2019), <https://harmreductionjournal.biomedcentral.com/counter/pdf/10.1186/s12954-018-0276-0.pdf> [<https://perma.cc/Y5YX-JM7D>].

136. *Id.* at 7–8.

137. *Id.* at 5.

138. *Strengthening Syringe Services Programs (SSPs)*, *supra* note 14.

139. *Data Summary: Vulnerable Areas for Infectious Diseases in Persons Who Inject Drugs*, CDC (Feb. 16, 2024), <https://www.cdc.gov/persons-who-inject-drugs/vulnerable/index.html> [<https://perma.cc/XEE9-RM8V>].

140. *Strengthening Syringe Services Programs (SSPs)*, *supra* note 14.

141. *Hepatitis C*, IOWA DEP’T HEALTH & HUM. SERVS., <https://hhs.iowa.gov/public-health/data/health/hepatitis-c> [<https://perma.cc/TVQ3-B88J>].

142. *Id.*

143. *HIV/AIDS*, IOWA DEP’T HEALTH & HUM. SERVS., <https://hhs.iowa.gov/center-acute-disease-epidemiology/epi-manual/reportable-diseases/hiv/aids> [<https://perma.cc/X8JR-KUXE>].

144. One counterfactual study in Scott County, Indiana suggested that utilizing SSPs earlier during an outbreak of HIV in the county would have “substantially blunted” its impact. Gregg S. Gonsalves & Forrest W. Crawford, *Dynamics of the HIV Outbreak and Response in Scott County, IN, USA, 2011–15: A Modelling Study*, 5 LANCET HIV e569, e576 (2018).

hepatitis C incidence.”¹⁴⁵ Thus, many Iowans with HIV/AIDS and hepatitis C would likely not have contracted the diseases if they had access to sterile syringes.¹⁴⁶ And PWID are not the only ones put at risk of these diseases by Iowa’s drug paraphernalia law.¹⁴⁷ SSPs reduce the risk of disease transmission to people who often encounter unsterile syringes, such as police officers and medical personnel, making access to sterile syringes a community-wide issue.¹⁴⁸

Erecting barriers to access SSPs also increases PWUD’s risk of overdose. First, prohibiting SSPs eliminates a potential conduit to treatment.¹⁴⁹ SSP staff work to build trust with participants through nonjudgmental and compassionate service, with a focus on the participant’s well-being.¹⁵⁰ In addition to offering sterile syringes, SSP staff often refer participants to treatment programs and other health services.¹⁵¹ These referrals are very effective,¹⁵² as research shows that SSPs increase the likelihood that PWID will enter and stay in treatment.¹⁵³ Second, prohibiting SSPs also eliminates a key source of other harm reduction resources.¹⁵⁴ For instance, many SSPs distribute the overdose reversing

145. *Strengthening Syringe Services Programs (SSPs)*, *supra* note 14.

146. See Samuel L. Groseclose et al., *Impact of Increased Legal Access to Needles and Syringes on Practices of Injecting-Drug Users and Police Officers—Connecticut, 1992–1993*, 10 J. ACQUIRED IMMUNE DEFICIENCY SYNDROMES & HUM. RETROVIROLOGY 82, 87 (1995) (showing a decrease in needlestick injuries among police in a community after Connecticut reformed its drug paraphernalia law to allow possession of syringes and their purchase at pharmacies); *Hepatitis C*, *supra* note 141 (“Today, most people get HCV by sharing needles or other equipment to inject drugs.”); Shao-Cheng Wang & Brion Maher, *Substance Use Disorder, Intravenous Injection, and HIV Infection: A Review*, 28 CELL TRANSPLANTATION 1465, 1468 (2019) (“Intravenous injection is strongly associated with HIV infection. PWID become infected with HIV when they share needles with other infected PWID; consequently, they become HIV carriers and transmitters through HIV risk behaviors such as needle sharing and having unprotected sex.”).

147. See John Lorentz, Linda Hill & Behzad Samimi, *Occupational Needlestick Injuries in a Metropolitan Police Force*, 18 AM. J. PREVENTATIVE MED. 146, 149 (2000).

148. *Id.* (“Needlestick injuries constitute a major occupational health problem in large at-risk population including police officers in metropolitan settings and ‘first responders’ (firemen, police and paramedics).”); *Needle Stick Exposure Protocol*, IOWA CARVER COLL. MED. (May 19, 2017), <https://iowaprotocols.medicine.uiowa.edu/protocols/needle-stick-exposure-protocol> [<https://perma.cc/QP7T-E84L>] (showing the risk of disease from needlestick injuries to medical professionals).

149. See *Strengthening Syringe Services Programs (SSPs)*, *supra* note 14.

150. See *Syringe Service Programs (SSPs)*, IOWA HARM REDUCTION COAL. <https://www.iowaharmreductioncoalition.org/2020-legislative-priorities/syringe-service-programs> [<https://perma.cc/AZ7-GCS7>].

151. *Strengthening Syringe Services Programs (SSPs)*, *supra* note 14.

152. See, e.g., Holly Hagan et al., *Reduced Injection Frequency and Increased Entry and Retention in Drug Treatment Associated with Needle-Exchange Participation in Seattle Drug Injectors*, 19 J. SUBSTANCE ABUSE TREATMENT 247, 250–51 (2000).

153. *Id.* at 250. (“Compared to those who had never used an exchange, new exchange users were five times more likely to enter methadone treatment and ex-exchangers were 60% more likely to remain in methadone treatment over the 1-year study period.”).

154. *Syringe Services Programs*, *supra* note 100.

medication naloxone and FTS to their participants.¹⁵⁵ This often also includes training on how to use the naloxone as well as how to recognize signs of an overdose.¹⁵⁶ Although PWUD can obtain naloxone from pharmacies without a prescription in Iowa, few PWUD access the medication this way due to fear of stigma and mistrust of traditional health care systems.¹⁵⁷ Put simply, by prohibiting SSPs and FTS, Iowa is ignoring a resource that provides nonjudgmental, accessible, and critical harm reduction services and an important tool that can prevent overdoses and save lives.

B. *FAILED ATTEMPTS TO AMEND IOWA'S DRUG PARAPHERNALIA LAW*

Politicians and activists have made repeated pushes to amend Section 124.414 to legalize FTS or SSPs, all ending in failure.¹⁵⁸ In 2019, members of the Iowa Senate introduced and failed to pass Senate File 500, a bill to establish a needle exchange pilot program.¹⁵⁹ In 2022, Iowa's attorney general, Tom Miller, advocated for FTS legalization;¹⁶⁰ however, he was voted out of office later that year before his advocacy could go further.¹⁶¹ In the 2023 legislative session, Iowa lawmakers rejected an amendment to House File 595—the fentanyl bill that increased penalties for fentanyl possession and distribution—to expressly exempt FTS from Section 124.414,¹⁶² with Governor Reynolds publicly stating her opposition to the amendment.¹⁶³

155. *Id.* (showing that many SSPs distribute naloxone). See generally Ju Nyeong Park et al., *Evaluation of Fentanyl Test Strip Distribution in Two Mid-Atlantic Syringe Services Programs*, 94 INT'L J. DRUG POL'Y 3–4 (2021) (discussing FTS distribution at SSPs).

156. *Strengthening Syringe Services Programs (SSPs)*, *supra* note 14.

157. *Community Access to Naloxone, IOWA HARM REDUCTION COAL.* (2025), <https://www.iowaharmreductioncoalition.org/2020-legislative-priorities/community-access-to-naloxone> [<https://perma.cc/GCB8-F232>].

158. See, e.g., Jack O'Connor, *Iowa Activists Push for Fentanyl Test Strips to Be Legalized*, GAZETTE (Aug. 25, 2024, 6:00 AM), <https://www.thegazette.com/news/iowa-activists-push-for-fentanyl-test-strips-to-be-legalized> [<https://perma.cc/XNR2-BVZ7>].

159. S. File 500, 88th Gen. Assemb., Reg. Sess. (Iowa 2019).

160. Ian Richardson, *Iowa Attorney General Tom Miller Calls to Legalize Fentanyl Test Strips as Overdoses Rise*, DES MOINES REG. (July 21, 2022, 4:02 PM), <https://www.desmoinesregister.com/story/news/politics/2022/07/21/fentanyl-test-strips-iowa-attorney-general-tom-miller-calls-legalize/10118913002> (on file with the *Iowa Law Review*).

161. Stephen Gruber-Miller, *Republican Brenna Bird Defeats Democrat Tom Miller in Iowa Attorney General Race*, DES MOINES REG. (Nov. 12, 2022, 10:14 AM), <https://www.desmoinesregister.com/story/news/politics/elections/2022/11/09/brenna-bird-topples-incumbent-tom-miller-in-iowa-attorney-general-race/69610291007> (on file with the *Iowa Law Review*).

162. Alexander Lekhtman, *Iowa Advocates Seeking to Legalize Fentanyl Test Strips*, FILTER (Aug. 27, 2024), <https://filtermag.org/iowa-fentanyl-test-strips-legalize> [<https://perma.cc/7P4E-47GN>].

163. Katarina Sostaric, *Reynolds Signs Law Increasing Penalties for Selling Fentanyl*, IOWA PUB. RADIO (May 16, 2023, 4:19 PM), <https://www.iowapublicradio.org/state-government-news/2023-05-16/reynolds-signs-law-increasing-penalties-for-selling-fentanyl> [<https://perma.cc/QSR2-AGW4>].

Harm reduction activists and lawmakers were optimistic about FTS legalization going into the last legislative session;¹⁶⁴ however, a bill that would legalize drug-checking equipment failed to make it to the floor.¹⁶⁵ This happened despite a push by Representative Srinivas, a lawmaker who proposed an amendment to House File 595 to legalize FTS, to gain bipartisan support¹⁶⁶ and efforts from the private sector to increase awareness of FTS.¹⁶⁷ Instead, political leaders have polarized the issue by using it as an opportunity to cast opponents as weak on border security, effectively ignoring the demand side of illicit substance use.¹⁶⁸ This likely acts as an obstacle to achieving bipartisan support for harm reduction laws.¹⁶⁹ Although harm reduction activists will likely continue their efforts to legalize FTS next legislative session, even if they are successful, this action will not go far enough. Legislation that does not comprehensively remove barriers and expand access to *both* SSPs and FTS will be insufficient to address Iowa's opioid crisis.¹⁷⁰

In addition to partisan obstacles, some of the most serious and problematic opposition to FTS comes from law enforcement. During the debate over whether to amend House File 595 to legalize FTS, one representative stated that almost every law enforcement representative he met with asked him “to pump the breaks on [the amendment]” due to concerns that FTS can show false

164. Jake Allen, *Profane Billboards Hope to Make Pressure Iowa Lawmakers to Legalize Fentanyl Test Strips*, DES MOINES REG. (Oct. 3, 2024, 7:38 AM), <https://www.desmoinesregister.com/story/new-s/health/2024/10/03/fentanyl-test-strips-overdrive-iowa-billboards-legislature/7547182007> (on file with the *Iowa Law Review*).

165. H. File 699, 91st Gen. Assemb., Reg. Sess. (Iowa 2025).

166. Allen, *supra* note 164.

167. In October 2024, Overdrive Defense, a company that sells FTS, paid for electronic billboards near the capitol building in Des Moines to campaign for FTS legalization. Jason Clayworth, *Fentanyl Test Strip Legalization Campaign Launches Friday*, AXIOS DES MOINES (Oct. 2, 2024), <https://www.axios.com/local/des-moines/2024/10/02/fentanyl-test-strip-ads-desmoine-s-iowa> [<https://perma.cc/6M6B-E4CW>]. One of the images showed a woman raising a middle finger with the caption “F*CK FENTANYL.” *Id.*

168. Sostaric, *supra* note 163.

169. Focusing too much on border security and law enforcement as answers to the opioid epidemic can also be counterproductive because it fails to recognize that the epidemic is, at its core, a public health crisis. See Mia Pope, *Blog Post: Immigrants Are Not to Blame for America's Fentanyl Crisis*, LAW ENFT IMMIGR. TASK FORCE (Apr. 28, 2023), <https://leitf.org/2023/04/fentanylblog> [<https://perma.cc/HQ8R-ME64>] (“Although border security is a critical part of addressing the fentanyl crisis, focusing on it alone will not be an effective solution. . . . Taking a public health perspective is also necessary to address the demand for fentanyl, overdose prevention, and addiction recovery. Anti-immigrant rhetoric distracts policymakers and the public from addressing the larger issues and instills fear and shame in the immigrant community, which can prevent individuals from seeking or providing help when needed.”).

An overly narrow focus on the supply side of the opioid epidemic does not just risk the inefficient allocation of resources and effort; it can adversely affect PWUD in significant ways that policymakers do not anticipate. For example, when states started to crack down on the supply of prescription opioids, many PWUD switched to heroin. See *supra* note 50 and accompanying text.

170. See *supra* Section II.A.

negatives.¹⁷¹ This argument, however, is problematic because it favors the views of law enforcement over medical organizations regarding a medical issue. Although FTS have been shown to produce false negatives,¹⁷² research shows “that the effects of FTS use on drug use behavior outweigh the very small likelihood of an uncertain result.”¹⁷³ Accordingly, the CDC,¹⁷⁴ SAMHSA,¹⁷⁵ the American Medical Association,¹⁷⁶ and numerous other medical and public health organizations support the use of FTS.¹⁷⁷

Law enforcement’s opposition to FTS also impinges on bodily autonomy. Nicholas Peiper, a researcher on FTS, points out that the general population commonly uses many health items, such as condoms, that do not offer one hundred percent protection.¹⁷⁸ He posits that, like abstinence-only education, simply telling people to expect fentanyl in every street drug could be counterproductive to PWUD’s informed decision-making.¹⁷⁹ Put another way, PWUD are the ones put at risk from a false negative FTS result. Therefore, denying them access to FTS denies them the ability to weigh the risks of using FTS and decide for themselves whether to use the tool. It also does nothing to curb substance use because harm reduction does not promote substance use.¹⁸⁰ As the Los Angeles County Department of Public Health put it, “harm reduction does not promote or increase drug use any more than . . . [seatbelts or helmets] promote reckless behavior in biking or driving.”¹⁸¹ In fact, studies

171. H. File 595, 2023 Sess. (Iowa 2023), <https://www.legis.iowa.gov/dashboard?view=video&chamber=H&clip=h20230321030007182&dt=2023-03-21&offset=6644&bill=HF%20595&stat us=i&ga=90> [<https://perma.cc/GBT8-YXAY>] (citing Iowa House Video 03/21/2021 at 4:56:55 to 4:57:45 PM).

172. John C. Halifax, Lilly Lim, Daniel Ciccarone & Kara L. Lynch, *Testing the Test Strips: Laboratory Performance of Fentanyl Test Strips*, 21 HARM REDUCTION J., Jan. 18, 2024, at 1, 3.

173. Nicholas C. Peiper et al., *Fentanyl Test Strips as an Opioid Overdose Prevention Strategy: Findings from a Syringe Services Program in the Southeastern United States*, 63 INT’L J. DRUG POL’Y 122, 127 (2019).

174. *What You Can Do to Test for Fentanyl*, *supra* note 15.

175. *Fentanyl and Xylazine Test Strips*, SAMHSA (Jan. 31, 2024), <https://www.samhsa.gov/medications-substance-use-disorders/medications-counseling-related-conditions/fentanyl-xylazine-test-strips> [<https://perma.cc/BG7H-XHX7>].

176. *Fentanyl Test Strips*, AM. MED. ASS’N, <https://www.ama-assn.org/topics/fentanyl-test-strips> [<https://perma.cc/ZD5Z-X95F>].

177. *See, e.g.*, Press Release, Cal. Dep’t of Health Care Servs., California Offering Free Fentanyl Test Strips Through the Naloxone Distribution Project (Mar. 28, 2024), <https://www.dhcs.ca.gov/formsandpubs/publications/oc/Pages/24-10-FTS-NDP-03-28-24.aspx> [<https://perma.cc/58DB-HAUT>].

178. Peiper et al., *supra* note 173, at 127.

179. *Id.*

180. *Harm Reduction*, CNTY. OF L.A. PUB. HEALTH, <http://publichealth.lacounty.gov/sapc/public/harm-reduction> [<https://perma.cc/9Q4D-S84V>].

181. *Id.* Critics of harm reduction often point to Oregon’s drug decriminalization efforts. State voters passed a ballot measure in 2020 that decriminalized minor drug possession. Claire Rush, *Oregon Law Rolling Back Drug Decriminalization Takes Effect, Making Possession a Crime Again*, PBS NEWS (Sept. 1, 2024, 3:32 PM), <https://www.pbs.org/newshour/politics/oregon-law-rolling>

have consistently shown that punitive drug laws, unlike harm reduction programs, do little to deter substance use and can actually increase the risk of an overdose among PWUD by leading to more dangerous substance use behaviors.¹⁸²

In their efforts to legalize SSPs, harm reduction advocates face even more daunting hurdles than in their push to legalize drug-checking equipment. Opposition to SSPs stems from the misconceptions that they encourage drug use and increase the amount of improperly disposed needles in the community.¹⁸³ Both of these beliefs have no scientific basis.¹⁸⁴ After decades of research, there is no evidence that SSPs increase drug use or crime.¹⁸⁵ There is also no evidence that SSPs increase the amount of improperly

-back-drug-decriminalization-takes-effect-making-possession-a-crime-again [https://perma.cc/B8SE-CMKF]. But less than four years later, Oregon reinstated misdemeanor penalties for drug possession after experiencing a backlash against increased public drug use and overdose deaths. *Id.*; Katia Riddle, *How Oregon Turned on Its Own Trailblazing Drug Law: 'Not the Utopia We Were Promised,'* GUARDIAN (Feb. 21, 2024, 7:00 AM), https://www.theguardian.com/us-news/2024/feb/21/oregon-drug-law-measure-110-backlash (on file with the *Iowa Law Review*). Full decriminalization of drug possession is beyond the scope of this Note, but it is worth briefly addressing the misinformation that surrounds the issue. To be sure, Oregon did see a rise in drug overdoses, but so did many other parts of the United States after the ballot measure went into effect. See *SUDORS Dashboard: Fatal Drug Overdose Data – Accessible Version*, CDC (Aug. 7, 2025), https://www.cdc.gov/overdose-prevention/data-research/facts-stats/sudors-dashboard-fatal-overdose-data-accessible.html [https://perma.cc/DEP4-S2SF]. Studies conducted after voters passed the initiative also did not find any evidence that decriminalization led to higher overdose rates or more violent crime arrests. Press Release, NYU Langone Health, *Decriminalizing Drug Possession Not Linked to Higher Overdose Death Rates in Oregon or Washington* (Sept. 27, 2023), https://nyulangone.org/news/decriminalizing-drug-possession-not-linked-higher-overdose-death-rates-oregon-or-washington [https://perma.cc/3YUZ-L4L4]. At the very least, this paints a more nuanced picture of what happened in Oregon than many detractors of harm reduction suggest.

182. Cole A. Jurecka & Joshua A. Barocas, *Using Evidence to Inform Legislation Aimed at Curbing Fentanyl Deaths*, JAMA HEALTH F. 2 (Jan. 27, 2023), https://jamanetwork.com/journals/jama-health-forum/fullarticle/2800863 [https://perma.cc/LT6V-L4RE].

183. Madeline B. Karsten, *A Case for Needle Exchange Programs: Not Letting Perfection Be the Enemy of the Good*, GEO. MED. REV. 4 (2023), https://doi.org/10.52504/001c.83277 [https://perma.cc/8KDF-VQKG]. Susie Sher, Bureau Chief at the Iowa Department of Public Safety's Office of Drug Policy, perpetuates this misconception. 2025 IOWA DRUG CONTROL STRATEGY, *supra* note 74, at 4 ("One of the greatest challenges Iowa faces is the growing normalization of drug use. Despite the known harms and inherent risks associated with drug use, efforts continue by some to promote the concept of safer use. Efforts to 'reduce harm' can be misleading at times and risk fostering a false sense of security. Concepts such as these can cause a shift in societal norms and a diminished perception of risk. When the perceived risk of drug use is reduced, the likelihood of experimentation rises, which in turn opens the door to the threat of ongoing use, addiction, and escalation.")

184. *Syringe Distribution Programs Can Improve Public Health During the Opioid Overdose Crisis*, PEW (Mar. 2, 2021), https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2021/03/syringe-distribution-programs-can-improve-public-health-during-the-opioid-overdose-crisis [https://perma.cc/2873-KWBX].

185. *Id.*

disposed needles.¹⁸⁶ On the contrary, evidence has consistently shown that SSPs facilitate access to treatment and “increase [the] proper disposal of used needles.”¹⁸⁷ Despite the clear evidentiary support for SSPs, a study in 2018 found that only thirty-nine percent of Americans support such programs.¹⁸⁸ This is a nineteen percent decrease in support from 2000, the last time researchers measured national public opinion.¹⁸⁹ Thus, stigma and misinformation still act as powerful barriers to SSP legalization.

III. AMENDING IOWA’S DRUG PARAPHERNALIA LAW

To reduce overdose deaths, decrease the spread of disease, and improve access to treatment, Iowa should amend Section 124.414 to expressly allow possession and distribution of sterile injection supplies and drug-checking equipment. But Iowa should not stop at mere legalization of these harm reduction tools. The opioid epidemic is constantly evolving. Novel substances can become more prevalent in the drug supply, and the demographics of PWUD can shift.¹⁹⁰ Any new law needs to recognize this and be flexible enough to respond to changing conditions.

This Part argues that Iowa should create an environment conducive to expanding harm reduction services. First, this Part proposes that, in amending Section 124.414, Iowa should not place undue burdens on SSP operations. Next, this Part advocates that Iowa should proactively provide sufficient funding for drug-checking equipment and SSPs, including supporting harm reduction awareness programs. This Part then discusses how the state and local governments could use FTS and SSP legalization as an opportunity to efficiently spend their opioid settlement funds.

A. AVOIDING ONEROUS SSP RESTRICTIONS

In drafting an amendment to Section 124.414 that legalizes SSPs and drug-checking equipment, Iowa should not place undue burdens on SSPs for them to operate in the state. Although a limited SSP is better than no SSP, not all harm reduction laws are created equal, and ones that put onerous

186. *Id.*

187. *Id.*

188. Emma E. McGinty et al., *Public Support for Safe Consumption Sites and Syringe Services Programs to Combat the Opioid Epidemic*, 111 PREVENTATIVE MED. 73, 74 (2018). Support for SSPs is generally higher among Democrats than Republicans. *Id.* However, there are signs SSPs are gaining bipartisan support. Numerous Republican-controlled states have legalized SSPs since the study was published. Victoria Knight, *Needle Exchanges Find New Champions Among Republicans*, USA TODAY (May 8, 2019, 9:58 AM), <https://www.usatoday.com/story/news/nation/2019/05/08/needle-exchange-programs-more-accepted-republican-states/1139672001> [<https://perma.cc/DJX9-MWDM>]. The cited study also did not specifically measure public opinion in Iowa regarding SSPs. See McGinty et al., *supra*, at 74. Nevertheless, it still offers useful insight into the challenges SSPs face in gaining public support.

189. See McGinty et al., *supra* note 188, at 74.

190. See *supra* Section I.A; see also *supra* note 103 (discussing xylazine).

restrictions on SSPs severely limit their ability to function.¹⁹¹ To ensure SSPs operate as effectively as possible, the legislature should be mindful of how the language of any amendment to Section 124.414 would affect access to harm reduction resources. With that consideration in mind, Iowa should not limit how much sterile injection equipment PWID can receive.¹⁹² PWID need sufficient access to sterile syringes and needles to reduce the spread of communicable diseases.¹⁹³ One-for-one syringe exchange programs in place of needs-based syringe distribution programs provide insufficient sterile syringe coverage and increase the likelihood of needle sharing.¹⁹⁴ This is because it forces participants to hold on to injection equipment until they can return to the SSP.¹⁹⁵ It also limits participants' ability to act as secondary distributors of sterile injection equipment to PWID who do not participate in SSPs.¹⁹⁶

Iowa should also not require local government approval to start SSPs in a community. Requiring local government approval to start an SSP often makes it difficult to get SSPs off the ground due to community misconceptions about their services.¹⁹⁷ Political opposition to SSPs can come from the personal beliefs of the local politicians themselves or from NIMBYism among neighbors and businesses, with the latter often exerting formidable pressure on political leaders.¹⁹⁸ Local resistance to SSPs can cause even well-established and successful SSPs to close. In Scott County, Indiana, county commissioners decided to close down their existing SSP, even though members of the

191. Stephen M. Davis & Alfgeir L. Kristjansson, *Is Law Enforcement Support the Missing Key to Thriving Syringe Service Programs in US Rural Areas?*, 114 AM. J. PUB. HEALTH 458, 458–59 (2024).

192. *Guide to Developing and Managing Syringe Access Programs, Module 2: Operational Issues*, NAT'L HARM REDUCTION COAL. (2024), <https://harmreduction.org/issues/syringe-access/guide-to-managing-programs/module-2-operational-issues> [<https://perma.cc/57AM-QB5C>].

193. Ashleigh Dennis, *Some States Unwisely Cling to One-to-One Syringe Exchange Instead of Evidence Based Needs-Based Distribution*, NETWORK FOR PUB. HEALTH L. (Apr. 1, 2024), <https://www.networkforphl.org/news-insights/some-states-unwisely-cling-to-one-to-one-syringe-exchange-instead-of-evidence-based-needs-based-distribution> [<https://perma.cc/7EMX-MFKT>].

194. Ricky N. Bluthenthal et al., *Examination of the Association Between Syringe Exchange Program (SEP) Dispensation Policy and SEP Client-Level Syringe Coverage Among Injection Drug Users*, 102 ADDICTION 638, 644 (2007).

195. Dennis, *supra* note 193.

196. *Syringe Distribution Programs Can Improve Public Health During the Opioid Overdose Crisis*, *supra* note 184.

197. See Leah Willingham, *West Virginia's Capital Officials Reject Abortion Provider's Proposal to Start Syringe Service*, ASSOCIATED PRESS (Aug. 8, 2023, 10:01 AM), <https://apnews.com/article/abortion-opioids-syringe-exchange-west-virginia-charlestonod4efbd84bc039532c849427e5783047> [<https://perma.cc/95ET-XTFJ>] (discussing how the local government in Charleston, West Virginia rejected a proposed SSP due to fears of increased crime and drug use).

198. Barbara Tempalski, Risa Friedman, Marie Keem, Hannah Cooper & Samuel R. Friedman, *NIMBY Localism and National Inequitable Exclusion Alliances: The Case of Syringe Exchange Programs in the United States*, 38 GEOFORUM 1250, 1256–60 (2007).

community were vocal in their support and a former U.S. surgeon general described the program as “the gold standard.”¹⁹⁹

Furthermore, Iowa should not create excessive enrollment requirements for SSP participants. The National Harm Reduction Coalition finds that “the rule of thumb is generally that less is more.”²⁰⁰ Otherwise, strict requirements can act as barriers to SSP participation and decrease SSP reach. For example, checking an individual’s ID may dissuade that person from participating in an SSP because of the loss of anonymity.²⁰¹ It also can create problems with SSP access separate from issues of privacy because people who are homeless often lose their IDs or have them stolen.²⁰²

West Virginia serves as a warning against placing the foregoing requirements on SSPs. In 2018, after encountering backlash in Cabell County, West Virginia, an SSP was forced to operate a one-for-one exchange program and require participants to show identification before accessing its services.²⁰³ The CDC found that these stringent requirements played a part in an HIV outbreak in the county.²⁰⁴ Nevertheless, the state government passed a law in 2021 that requires SSP participants to prove residency and mandates SSPs to be one-for-one exchanges.²⁰⁵ The law also increases licensing requirements for SSPs and compels SSPs to label the syringes they distribute.²⁰⁶ Failure to comply with the law can result in fines of up to ten thousand dollars.²⁰⁷ As a result of these added burdens, over half of the SSPs in the state closed down within three years, increasing the rates of HIV and hepatitis C across the

199. Mitch Legan, *Indiana Needle Exchange that Helped Contain a Historic HIV Outbreak to Be Shut Down*, NPR (June 3, 2021, 11:24 AM), <https://www.npr.org/sections/health-shots/2021/06/01/1001278712/indiana-needle-exchange-that-helped-contain-an-hiv-outbreak-may-be-forced-to-clo> [https://perma.cc/937F-CCF7]. The commissioners opposed to the SSP believed that it was causing more overdoses in the county. *Id.* One of the commissioners compared it to buying an alcoholic a bottle of whiskey. *Id.*

200. *Guide to Developing and Managing Syringe Access Programs, Module 2: Operational Issues*, *supra* note 192.

201. *Id.*

202. *Id.*

203. Davis & Kristjansson, *supra* note 191, at 458–59.

204. Amy Atkins et al., *Notes from the Field: Outbreak of Human Immunodeficiency Virus Infection Among Persons Who Inject Drugs – Cabell County, West Virginia, 2018–2019*, 69 MORBIDITY & MORTALITY WKLY. REP. 499, 499 (2020) (“Although a harm reduction program, including access to sterile syringes, had been operating at [the Cabell-Huntington Health Department] since September 2015, stricter requirements, including proof of Cabell County residency, were initiated in May 2018, which limited access to these services.”).

205. See Tasha Withrow, *Harm Reduction Under Attack in West Virginia*, W. VA. WATCH (Feb. 29, 2024, 5:55 AM), <https://westvirginiawatch.com/2024/02/29/harm-reduction-under-attack-in-west-virginia> [https://perma.cc/C89K-F2LX].

206. Quenton King, *A New WV Law Closed Mercer County’s Needle Exchange. What Happens Next?*, MTN. ST. SPOTLIGHT (Nov. 2, 2021), <https://mountainstatespotlight.org/2021/11/02/a-new-wv-law-closed-mercer-county-needle-exchange> [https://perma.cc/5Q7U-YLG2].

207. See *id.*

state.²⁰⁸ Thus, if Iowa follows West Virginia's example, it will not see the full benefits of SSPs and the harm reduction resources they provide. With the prevalence of diseases related to injection drug use in Iowa,²⁰⁹ this difference in accessibility of SSP services can profoundly affect the quality of life of people in the state.

To ensure SSPs reach their full potential, the Iowa legislature could look to the Model Syringe Services Program Act for guidance in amending Section 124.414. Promulgated by the White House Office of National Drug Control Policy in 2021, the model law serves as a legislative template for states to use in ensuring access to SSP services.²¹⁰ It addresses a broad array of potential barriers to an SSP's operations, including provisions prohibiting local ordinances that interfere with establishing SSPs,²¹¹ maintaining participant anonymity,²¹² ensuring immunity for both SSP staff and participants,²¹³ developing educational and training materials for the public,²¹⁴ and establishing funding sources for SSPs.²¹⁵ The model law also illustrates the complementary nature of SSPs and drug-checking equipment by listing drug-checking supplies and equipment in the definition of SSP "supplies."²¹⁶ Because the model law is a legislative guide without any legal force, the Iowa legislature has the flexibility to choose what portions to incorporate into Iowa law and tailor it to meet Iowa's specific needs. Incorporating the model law into legislation is not the only way to ensure that Iowa does not create undue barriers against SSPs, but if Iowa is attentive to issues of SSP accessibility in drafting its amendment, even if only in part, it will decrease infectious disease and overdose rates.²¹⁷

B. EXPANDING HARM REDUCTION SERVICES

After passing an amendment to Section 124.414 that legalizes SSPs and drug-checking equipment, Iowa should provide adequate funding for such programs to achieve their full benefits. Even with federal funding and donations, SSPs need sustained support from all levels of government to be

208. Withrow, *supra* note 205.

209. See *supra* Section II.A.

210. Press Release, Off. of Nat'l Drug Control Pol'y, White House, White House Releases Model Law to Help States Ensure Access to "Safe, Effective, and Cost-saving" Syringe Services Programs (Dec. 8, 2021), <https://bidenwhitehouse.archives.gov/ondcp/briefing-room/2021/12/08/white-house-releases-model-law-to-help-states-ensure-access-to-safe-effective-and-cost-savin-g-syringe-services-programs> [<https://perma.cc/V58E-8PGM>].

211. LEGIS. ANALYSIS & PUB. POL'Y ASS'N, MODEL SYRINGE SERVICES PROGRAM ACT 13 (2021), <https://legislativeanalysis.org/wp-content/uploads/2022/02/Model-Syringe-Services-Program-Act.pdf> [<https://perma.cc/S2C6-UNCT>].

212. *Id.*

213. *Id.* at 26.

214. *Id.* at 29.

215. *Id.* at 30–31.

216. *Id.* at 10.

217. See *supra* Section II.A.

optimally effective.²¹⁸ Results from a 2022 survey of all known SSPs in the United States showed that “[t]he median SSP annual budget was \$100,000.”²¹⁹ This level of funding “[was] far below minimum benchmarks for a small-scale SSP.”²²⁰ Budgetary constraints decrease the reach and variety of SSP services and force many SSPs to rely on volunteers, making it difficult to run a stable program.²²¹

The difference between states that provide sufficient funding for SSPs and those that do not is stark. In Indiana, the state’s low level of public health spending per capita leaves many public health organizations with limited resources to support an SSP.²²² This leaves the state with only nine SSPs.²²³ Across the border, Michigan actively supports SSPs in the state.²²⁴ Between 2017 and 2022, Michigan went from having only four SSPs legally operating in the state to thirty-five.²²⁵ In a survey of nineteen Michigan SSP operators, participants described financial support from the Michigan Department of Health and Human Services as “an essential first step” to SSP implementation.²²⁶ Disparities in the reach of SSPs can even be seen within states. In California, the state government initiated the California Harm Reduction Initiative (“CHRI”), a three-year program that dedicated \$15.2 million to SSPs in the state.²²⁷ The effects were substantial.²²⁸ In 2021, CHRI-funded programs distributed seventy-five percent more syringes, sixty-eight percent more naloxone doses, and almost one hundred percent more FTS than programs not funded by CHRI.²²⁹

Iowa should also allocate funding for FTS purchase and distribution. Much of this funding could come from the federal government, as FTS legalization at the state level would remove the final barrier for the state to

218. Shelley N. Facente et al., *Funding and Delivery of Syringe Services Programs in the United States*, 2022, 114 AM. J. PUB. HEALTH 435, 439 (2024).

219. *Id.* at 438.

220. *Id.* at 439.

221. *Id.* at 440.

222. EMILY SIGHTES, BRAD RAY, DENNIS WATSON, PHIL HUYNH & CARRIE LAWRENCE, THE IMPLEMENTATION OF SYRINGE SERVICE PROGRAMS (SSPs) IN INDIANA: BENEFITS, BARRIERS, AND BEST PRACTICES 7 (2018) (on file with the *Iowa Law Review*).

223. See *Syringe Service Programs of Indiana*, IND. RECOVERY NETWORK, <https://indianarecoverynetwork.org/syringe-service-programs-of-indiana> [<https://perma.cc/H66Q-ZB58>].

224. SEAN T. ALLEN ET AL., JOHNS HOPKINS BLOOMBERG SCH. PUB. HEALTH, LESSONS LEARNED DURING THE LAUNCH OF SYRINGE SERVICES PROGRAMS IN MICHIGAN 3 (2023), <https://opioidprinciples.jhsph.edu/wp-content/uploads/2023/02/JHU-027-Syringe-Services-Report-FINAL-v1.9.23-3-23.pdf> [<https://perma.cc/7VV8-6LTM>].

225. *Id.*

226. *Id.* at 6.

227. Barrot H. Lambdin et al., *Impact of the California Harm Reduction Initiative*, RTI INT’L (Jan. 30, 2023), <https://www.rti.org/insights/impact-of-california-harm-reduction-initiative> [<https://perma.cc/FU3F-ANZ9>].

228. *Id.*

229. *Id.*

utilize federal funds on FTS.²³⁰ In disbursing federal FTS funds to subgrantees, Iowa should prioritize organizations that already have established trusting relationships with PWUD. These organizations would be able to use their existing infrastructure to quickly and effectively distribute FTS.²³¹ For example, the Addiction Prevention Coalition (“APC”) in Alabama partnered with the University of Alabama at Birmingham to use SAMHSA funds on Project Linkage, Education, and Prevention (“LEAP”).²³² The program “provide[s] . . . substance use prevention services to youths and young adults.”²³³ After FTS were legalized in Alabama, APC was able to use its small size to its advantage by quickly requesting permission from SAMHSA to use LEAP money on FTS.²³⁴ As a result, APC became the first entity in the state to distribute FTS.²³⁵ APC ended up handing out 1,350 FTS before the local health department started distributing its own FTS.²³⁶ In the future, APC will partner with the University of Alabama at Birmingham and local health departments.²³⁷ Thus, by funding existing opioid-related infrastructure, Iowa will be able to support similar innovative strategies to quickly ramp up FTS distribution after legalization.

Finally, Iowa should fund community engagement initiatives to increase awareness of the effectiveness of evidence-based harm reduction strategies. Local acceptance is critical to the survival of harm reduction programs.²³⁸ As stated previously, SSPs have shut down due to a lack of public support from the community.²³⁹ Fortunately, opposition to SSPs is not insurmountable, as much of the low support for harm reduction services stems from lack of exposure to the concept.²⁴⁰ Iowa can decrease stigmatizing attitudes by investing in messaging strategies such as evidence-based communication campaigns and circulating harm reduction success stories.²⁴¹ Specifically, utilizing people’s lived experience with substance use in these campaigns can

230. See *supra* Section II.A.

231. See, e.g., C. Greer McCollum et al., *Rapid Response to the Legalization of Fentanyl Test Strips in Alabama: An Academic-Community Partnership*, 114 AM. J. PUB. HEALTH 785, 785–86 (2024).

232. *Id.*

233. *Id.* at 785.

234. *Id.* at 785–86.

235. *Id.* at 786.

236. *Id.*

237. *Id.* at 787.

238. Legan, *supra* note 199 (discussing the importance of building trust in the community for harm reduction services).

239. See *supra* Section III.A. Kanawha County, West Virginia provides another example of how lack of community support can doom harm reduction initiatives. In 2018, an SSP in the county shut down after becoming a political issue, with some locals expressing their fear “that the [SSP] promoted drug use, increased crime, and caused needle litter in public places.” Davis & Kristjansson, *supra* note 191, at 458.

240. McGinty et al., *supra* note 188, at 75–76.

241. *Id.* at 76.

be a powerful tool to counter misconceptions about PWUD and decrease opposition to harm reduction strategies.²⁴² In one qualitative study that analyzed the community harm reduction engagement strategies, harm reduction workers with lived experience emphasized that their participation in community meetings with stakeholders “combat[ed] negative community perceptions of PWUD and harm reduction services.”²⁴³ Therefore, if Iowa complements the implementation of SSP and FTS programs with awareness campaigns to decrease stigma and misinformation surrounding harm reduction, it will not only make it easier to start such programs but also contribute to their sustainability.

C. HARM REDUCTION AND THE OPIOID SETTLEMENTS

The state and local governments could also use FTS and SSP legalization to efficiently spend their opioid settlement dollars on cost-effective programs that address the opioid epidemic. Over three thousand state and local governments have initiated lawsuits against pharmaceutical companies for their role in the opioid epidemic.²⁴⁴ In 2021, state and local governments across the United States reached nationwide settlement agreements totaling \$26 billion with the pharmaceutical manufacturer Johnson & Johnson and the pharmaceutical distributors AmerisourceBergen, Cardinal Health, and McKesson.²⁴⁵ From 2022 onward, Iowa is slated to receive \$174 million over the course of eighteen years from these settlement agreements.²⁴⁶ In 2022, Iowa’s Attorney General’s office agreed to five more settlement agreements totaling up to \$345 million with the pharmaceutical manufacturers Teva and Allergan and the pharmacies CVS, Walmart, and Walgreens, to be paid out over the course of a multi-year period.²⁴⁷ And in 2025, the Attorney General’s office “sign[ed] on to a \$7.4 billion settlement with Purdue Pharma and its

242. Claire G. Hoffman et al., “We Flew Under the Radar:” *Examining the Influence of Stigma on Community Engagement Strategies Among Harm Reduction Practitioners in Central Appalachia*, QUALITATIVE RSCH. HEALTH 4 (June 2023), <https://www.sciencedirect.com/science/article/pii/S2667321523000550> [https://perma.cc/KAZ7-RZDA].

243. *Id.*

244. *Opioids*, NAT’L ASS’N ATT’YS GEN., <https://www.naag.org/issues/opioids> [https://perma.cc/B4V6-HSMH].

245. *Distributors and Johnson & Johnson/Janssen Settlements*, IOWA DEP’T JUST., <https://www.iowaattorneygeneral.gov/newsroom/opioid-settlement-information/distributors-and-johnson-johnson-janssen-settlements> [https://perma.cc/XTQ6-GKT2].

246. Natalie Krebs, *Iowa Opioid Settlement Dollars Are Starting to Come in, but Most Remain Unspent*, IOWA PUB. RADIO (July 2, 2024, 1:09 PM), <https://www.iowapublicradio.org/ipr-news/2024-07-02/iowa-opioid-settlement-dollars-are-starting-to-come-in-but-most-remain-unspent> [https://perma.cc/3S43-563T]. Participating companies “includ[e] Johnson & Johnson, Teva, CVS, and Walgreens.” Caleb McCullough, *Iowa’s Opioid Settlement Funds Unspent After Legislators Fail to Agree*, GAZETTE (Apr. 29, 2024, 11:41 AM), <https://www.thegazette.com/state-government/iowa-s-opioid-settlement-funds-unspent-after-legislators-fail-to-agree> [https://perma.cc/STEP-XJ7D].

247. *Opioid Settlement Information*, IOWA DEP’T JUST. (2025), <https://www.iowaattorneygeneral.gov/newsroom/opioid-settlement-information> [https://perma.cc/AU2T-MKX4].

owners, the Sackler Family,” of which Iowa will receive \$37.8 million.²⁴⁸ Half of Iowa’s allotted funds go to the state, with the other half going to local governments.²⁴⁹

Per the terms of the settlement agreements, the state and local governments are required to spend at least seventy percent of the money on “opioid remediation” efforts.²⁵⁰ This means that the governments must direct, at a minimum, that percentage of funds on opioid treatment, mitigation, or misuse.²⁵¹ Exhibit E, a document in each settlement agreement, articulates what recipients can spend the opioid settlement money on.²⁵² The document states that grantees should give priority to abatement strategies listed under its “core strategies” section and lists other approved abatement strategies as “approved uses.”²⁵³ The “core strategies” include evidence-based responses to the opioid epidemic such as expanding access to the overdose-reversing medication naloxone, improving access to medications to treat OUD, expanding recovery services, and building up SSPs.²⁵⁴ These priorities follow established medical practice and are consistent with guidelines promulgated by the American Society of Addiction Medicine.²⁵⁵

248. Press Release, Iowa Dep’t of Just., Attorney General Bird Announces \$37.8 Million Opioid Settlement from Purdue Pharma (June 18, 2025), <https://www.iowaattorneygeneral.gov/newsroom/attorney-general-bird-announces-378-million-opioid-settlement-from-purdue-pharma> [https://perma.cc/GXE7-E773].

249. *Iowa’s Opioid Settlements*, VITAL STRATEGIES (Sept. 1, 2024), <https://www.opioidsettlementguides.com/iowa> [https://perma.cc/M27W-TR6J].

250. See, e.g., Janssen Settlement Agreement at 31, *In re Nat’l Prescription Opiate Litig.*, No. 17-md-2804 (N.D. Ohio Mar. 30, 2022) [hereinafter Janssen Settlement Agreement]; Sam Mermin, Rebekah Falkner & Katie Greene, *Understanding Opioid Settlement Spending Plans Across States: Key Components and Approaches*, NAT’L ACAD. FOR ST. HEALTH POL’Y (Dec. 8, 2022), <https://nashp.org/understanding-opioid-settlement-spending-plans-across-states-key-components-and-approaches> [https://perma.cc/NZB2-8CYW].

251. See, e.g., Janssen Settlement Agreement, *supra* note 250, at 6 (“‘Opioid Remediation’ means care, treatment, and other programs and expenditures . . . designed to (1) address the misuse and abuse of opioid products, (2) treat or mitigate opioid use or related disorders, or (3) mitigate other alleged effects of the opioid abuse crisis, including on those injured as a result of the opioid abuse crisis. Exhibit E provides a non-exhaustive list of expenditures that qualify as being paid for Opioid Remediation. Qualifying expenditures may include reasonable related administrative expenses.”).

252. See *About*, MICH. SUD RES., <https://www.michigan.gov/opioids/opioidsettlements/about> [https://perma.cc/S77V-7AXB].

253. See, e.g., Distributor Settlement Agreement at 1–4, *In re Nat’l Prescription Opiate Litig.*, No. 17-md-2804 (N.D. Ohio Mar. 25, 2022) [hereinafter Distributor Settlement Agreement].

254. See, e.g., *id.* at 1–3.

255. AM. SOC’Y OF ADDICTION MED., THE ASAM NATIONAL PRACTICE GUIDELINE FOR THE TREATMENT OF OPIOID USE DISORDER: 2020 FOCUSED UPDATE 48 (2020), <https://sitefinitystorage.blob.core.windows.net/sitefinity-production-blobs/docs/default-source/guidelines/npg-jam-supplement.pdf> [https://perma.cc/2EJ4-NNFW] (“[I]nterventions related to the provision of and education around harm reduction services including naloxone distribution, sterile syringe services, safe injection practices, risky behavior modification . . . should be considered and incorporated into the patient’s treatment plan as appropriate.”).

There are, however, issues with transparency in how state and local governments are spending the funds. There is currently no federal oversight over how the funds are spent.²⁵⁶ Furthermore, companies that are subject to the settlements can move to enforce the standards, but none have taken any action against even blatant unauthorized spending in the agreements.²⁵⁷ For instance, some counties in other states have spent nearly all their settlement dollars on law enforcement equipment such as body scanners, surveillance equipment, and patrol cars.²⁵⁸ In Louisiana, twenty percent of the settlement money is going to the sheriffs' departments.²⁵⁹

Like other states, both the state and local governments in Iowa have experienced challenges in spending the opioid settlement money.²⁶⁰ In 2022, the Iowa legislature created a fund to hold its share of the money.²⁶¹ However, questions about how much legislative oversight should be involved impeded the distribution of the opioid settlement funds.²⁶² It took three years for the state legislature to break the stalemate and agree on how to spend its share of the opioid settlement money, all the while letting the settlement fund reach over \$56 million.²⁶³ A compromise was finally reached at the end of the 2025 legislative session when the legislature agreed to distribute the money to the Iowa Department of Health and Human Services and the Attorney General's Office.²⁶⁴ The state's newly minted behavioral health districts will advise the agencies on how to spend the funds.²⁶⁵ Although the agencies need to submit an annual report detailing what the funds are spent on and whether the agencies achieved the funds' goals, some lawmakers still expressed concerns about the lack of legislative oversight before the funds are spent.²⁶⁶

256. Aneri Pattani, *Proposed Federal Law Would Put Limits on Use of \$50 Billion in Opioid Settlements*, NPR (Jan. 22, 2024, 5:00 AM), <https://www.npr.org/sections/health-shots/2024/01/22/1225764203/opioid-settlements-law-addiction-crisis> [<https://perma.cc/CCB7-N2EB>].

257. *Id.*; Distributor Settlement Agreement, *supra* note 253, at 34–35.

258. KFF HEALTH NEWS, *Using Opioid Settlement Cash for Police Gear like Squad Cars and Scanners Sparks Debate*, YOUTUBE (Oct. 30, 2023), <https://www.youtube.com/watch?v=5-LHvHu5JGg> [<https://perma.cc/QD86-KRC7>].

259. Aneri Pattani, *Law Enforcement Eyes Opioid Settlement Cash for Squad Cars and Body Scanners*, NPR (Oct. 20, 2023, 5:00 AM), <https://www.npr.org/sections/health-shots/2023/10/20/1206326239/law-enforcement-eyes-opioid> [<https://perma.cc/T7F6-YHRY>].

260. *See* Krebs, *supra* note 246.

261. McCullough, *supra* note 246.

262. *Id.*

263. Marissa Payne, *Gov. Kim Reynolds Signs into Law 'Compromise' on Spending \$56M in Opioid Settlement Funds*, DES MOINES REG. (June 6, 2025, 4:57 PM), <https://www.desmoinesregister.com/story/news/politics/2025/06/06/iowa-opioid-settlement-funds-plan-kim-reynolds/83801055007> (on file with the *Iowa Law Review*).

264. *Id.*

265. *Id.*

266. *Id.*

At the local level, counties are also struggling to spend their share of opioid settlement funds.²⁶⁷ Seventy-two counties did not use any of their opioid settlement in 2023.²⁶⁸ In particular, many of the smaller counties are unsure of how to spend the settlement dollars.²⁶⁹ This is consistent with trends across the Midwest where many rural counties lack the technical and institutional capacity to effectively respond to the opioid epidemic.²⁷⁰ These problems create a real risk that governments will not spend their opioid settlement funds efficiently at either the state or local level.

Amending Section 124.414 to legalize FTS and SSPs would mitigate this risk by allowing governments to spend their opioid settlement dollars on programs that fulfill key purposes of the settlement agreements. The national settlement agreements explicitly recommend increasing access to harm reduction resources.²⁷¹ Exhibit E lists “Expanding Syringe Service Programs” as one of the “core strategies,” signifying that settlement fund recipients should give it priority over other approved uses.²⁷² It also lists supporting harm reduction efforts, including access to drug-checking equipment, as an approved use of settlement funds.²⁷³ Thus, if Iowa legalized FTS, it would open up new ways for the state and its localities to support the people directly impacted by the pharmaceutical industry’s misconduct instead of spending the money on punitive strategies.

In addition to supporting the goals of the settlements, FTS and SSPs are cost-effective harm reduction resources that cash-strapped counties could efficiently use the settlement funds on.²⁷⁴ BNTX, Inc., a Canadian biotechnology company, manufactures most FTS on the market and sells them for only “one dollar per strip.”²⁷⁵ For SSPs, the cost during the first year—including startup costs—can be as low as \$300,000,²⁷⁶ and the federal government could cover

267. Krebs, *supra* note 246.

268. *Id.*

269. *Id.*

270. Telephone Interview with Christy L. Thrasher, Harm Reduction Consultant, Ind. Naloxone Project (Jan. 19, 2024).

271. JOHNS HOPKINS BLOOMBERG SCH. OF PUB. HEALTH, PRIMER ON SPENDING FUNDS FROM THE OPIOID LITIGATION 17 (2022), <https://opioidprinciples.jhsph.edu/wp-content/uploads/2022/04/Primer-on-Spending-Funds.pdf> [<https://perma.cc/8UWD-MK7G>].

272. *See, e.g.*, Janssen Settlement Agreement, *supra* note 250 at 1, 3.

273. *See, e.g., id.* at 12.

274. *See* Laura López González, *Can a Simple Fentanyl Test Curb San Francisco’s Overdose Crisis?*, U. CAL. (Oct. 5, 2023), <https://www.universityofcalifornia.edu/news/can-simple-fentanyl-test-curb-san-franciscos-overdose-crisis> [<https://perma.cc/D5F6-SHDP>] (“Test kits that include strips and a special testing solution can cost anywhere between \$25 to \$40 each and are available online.”); *Funding for Syringe Services Programs*, *supra* note 119 (“(SSPs) are safe, effective, and cost-saving.”).

275. FENTANYL TEST STRIPS, *supra* note 104.

276. Eyasu H. Teshale et al., *Estimated Cost of Comprehensive Syringe Service Program in the United States*, PLOS ONE, Apr. 2019, at 1, 5 (“The total cost for the first year of a comprehensive SSP ranged from \$0.4 (range \$0.3-\$0.6) million for a small rural program to \$1.9 (range \$1.4-\$2.3) million for a large urban SSP.”).

much of this cost through grants.²⁷⁷ In the long term, these costs could be offset by preventing drug-related disease treatment and hospitalizations.²⁷⁸ That is, the more money spent on prevention, the less money states need to spend on mitigation. For example, in North Carolina, hospital costs reached \$22.2 million in 2015 for opioid-related endocarditis alone.²⁷⁹ Research also shows that “every dollar spent [on] improving syringe access can save more than seven dollars in avoided HIV treatment expenses alone.”²⁸⁰

Counties in other states are already seeing success from using opioid settlement funds on SSPs. In Onondaga County, New York, the county health department used opioid settlement money along with other funding sources to start an SSP, prioritizing the homeless population in the county.²⁸¹ The county became the only government in Upstate New York to run an SSP.²⁸² Between December 2022 and August 2024, the program served approximately three hundred people from a sports utility vehicle by giving participants sterile syringes and FTS.²⁸³ The program has also provided participants with naloxone and linkages to addiction treatment.²⁸⁴ Legalizing SSPs and FTS would allow governments in Iowa to replicate this program and others like it. By doing so, it would serve people directly injured by the actions of the pharmaceutical companies.

CONCLUSION

When explaining her support for increasing penalties for fentanyl possession and distribution, Governor Reynolds stated “[t]his poison – and that’s what it is, poison – is fueling addiction, death and chaos.”²⁸⁵ However, by erecting barriers to harm reduction services, Iowa politicians are increasing the risk of opioid overdoses for the very people they say they are trying to protect. This illustrates the disconnect between those in power and people

277. *Id.* at 7 (“In our estimate the cost that will not be covered by federal funds amounts to approximately 28% for large SSPs and 11% for small SSPs.”).

278. See Aaron T. Fleischauer, Laura Ruhl, Sarah Rhea & Erin Barnes, *Hospitalizations for Endocarditis and Associated Health Care Costs Among Persons with Diagnosed Drug Dependence — North Carolina, 2010–2015*, 66 CDC MORBIDITY & MORTALITY WKLY. REP. 569, 569, 571 (2017).

279. *Id.*

280. Davis, Carr & Samuels, *supra* note 118.

281. Douglass Dowty, *Winning Trust: Why Onondaga County Began Giving Needles to Opioid Addicts 1 1/2 Years Ago*, SYRACUSE.COM (Aug. 13, 2024, 1:12 PM), <https://www.syracuse.com/health/2024/08/winning-trust-why-onondaga-county-began-giving-needles-to-opioid-addicts-2-years-ago.html> (on file with the *Iowa Law Review*).

282. *Id.*

283. *Id.*

284. *Id.*

285. Robin Opsahl, *Reynolds, Ernst Highlight Actions Addressing Fentanyl Crisis*, IOWA CAP. DISPATCH (May 16, 2023, 2:19 PM), <https://iowacapitaldispatch.com/2023/05/16/reynolds-ernst-highlight-actions-addressing-fentanyl-crisis> [<https://perma.cc/4Q35-9MGE>].

who personally experience OUD. Paternalistically telling PWUD to “just say no” ignores their lived experience and tramples on their bodily autonomy.

Iowa needs a more empathetic approach to the opioid epidemic. Amending Section 124.414 to actively promote SSPs and drug-checking equipment offers a new way forward. It would not only give PWUD access to lifesaving equipment, but it would also provide a nonjudgmental environment conducive to long-term recovery. Iowa can look to other states to determine the best way of implementing harm reduction programs while avoiding programs that do not work. Whatever option Iowa chooses, the status quo is not enough. By banning critical harm reduction resources, Iowa is one of the few states that still does not comprehend the fundamental point of harm reduction: Dead people do not recover.