

Research Protocol for Syringe Possession Laws

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Syringe Possession Laws

- I. **Date of Protocol:** July 2012, August 2013, January 2015, April 2015, March 2016, July 2017

- II. **Scope:** To compile state laws and regulations that meet the following inclusion criteria: (1) prohibit possession of drug paraphernalia; (2) regulate the retail sale of syringes, including laws and regulations that require a prescription for syringe purchase, and (3) authorize and/or regulate syringe exchange programs. This is a longitudinal dataset, and captures laws in effect from July 1, 2012 through July 1, 2017. The jurisdictions selected for measurement are the 50 states and the District of Columbia.

- III. **Primary Data Collection – Laws Regulating Possession of Syringes**
 - a. **Project Timeline:** Legal research was conducted between May 1, 2012 and July 31, 2012. This dataset has since been updated to include legal research up and until July 2017, see subsection IX. UPDATE: July 2017.

 - b. **Dates Covered in the Dataset:** This is a longitudinal dataset covering relevant Syringe Distribution Laws between July 1, 2012 and July 1, 2017.

 - c. **Data Collection Methods:** Research was conducted by two researchers at the Policy Surveillance Program, each covering half the states including the District of Columbia. Their work was supervised by a project manager at the Policy Surveillance Program. Professor Scott Burris from Temple University was consulted as a content expert during the research and coding phases. Key word searches were supplemented by examination of the table of contents of the controlled substances section of the state code.

 - d. **Search Terms and Databases Used:** Searches for enacted bills amending the included controlled substances possession laws were conducted in the current (Multistate Legislative Service - (LEGIS-ALL)) and historical (Multistate Legislative Service - Historical (LEGIS-OLD)) enacted bill libraries of Westlaw. The following search was used in LEGIS-OLD: "CONTROLLED SUBSTANCE" & POSSESS! & da(aft 12/31/2010) % "MOTOR VEHICLE". The following search was used in LEGIS-ALL: "CONTROLLED SUBSTANCE" & POSSESS! & da(aft 7/31/2012) and SYRINGE NEEDLE PARAPHERNALIA "HYPODERMIC DEVICE" "NEEDLE /3 EXCHANGE" "SYRINGE /3 EXCHANGE" & da(aft 12/31/2010). The following search was used in LEGIS-ALL: SYRINGE NEEDLE PARAPHERNALIA "HYPODERMIC DEVICE" "NEEDLE /3 EXCHANGE" "SYRINGE /3 EXCHANGE" & da(aft 7/31/2012). Cases interpreting the minimum amount of controlled substances necessary for a criminal possession violation were identified by West headnote "96H k29 k. Substance and quantity possessed" in all states after December 31, 2010.

Fifty-seven documents were returned in LEGIS-OLD, of which 2 met the inclusion criteria. Eighty-nine documents were returned in LEGIS-ALL; none met the inclusion criteria. The West headnote search returned 8 cases, four of which met the inclusion criteria.

- e. **Inclusion and Exclusion Criteria:** Included laws related to state-level syringe possession. The final list of variables can be found in the dataset’s codebook, which is accessible from the dataset’s homepage at LawAtlas.org.

IV. Coding

- a. **Development of Coding Scheme:** A coding scheme was developed based on review of the identified legal data. Legal texts (relevant excerpts of cases and statutes) were entered into Workbench by state.

The two researchers coded the laws in the states that they researched. Coding questions were discussed with the supervising researcher in group meetings. As necessary, the coding scheme was altered to accommodate newly identified features of the data, and completed states were recoded.

- b. **Coding Methods:** The legal text coded is limited to syringe possession statutes and regulations, as well as cases interpreting the minimum amount of controlled substances necessary for a criminal possession violation.

Below are coding rules that apply specifically to the coding questions throughout the dataset:

- **Question: “Does state law prohibit possession of drug paraphernalia?”**
 - When a jurisdiction prohibits sale or distribution of drug paraphernalia but not possession of drug paraphernalia, the team decided to code no to the question, “Does state law prohibit possession of drug paraphernalia”. The researchers included a caution note under the question when this scenario occurred.
- **Question: “Has the state removed references related to syringe from the definition of drug paraphernalia?”**
 - Note that this question mirrors the question, “Does the definition of drug paraphernalia explicitly refer to syringes?” in the syringe distribution dataset. In this dataset, “Yes, needles, syringes, or hypodermic devices” is coded when those components are all omitted from the definition of drug paraphernalia in that state. “Yes, injection or injecting” is coded when those components are all omitted from the definition of drug paraphernalia in that state.
- **Question: “What are the exceptions?”**
 - The exception that allows for syringe possession due to a “legitimate medical purpose” should only be coded when syringes are being possessed or prescribed outside of an authorized syringe exchange program. An example

of a “legitimate medical purpose” is a statute allowing a pharmacist to sell syringes in an effort to prevent blood borne disease.

- **Question: “Has the state removed from the definition of drug paraphernalia?”**
 - This question is only answered “Needles, syringes, hypodermic devices” and/or “Injection or injecting” if those references were previously included in the state law defining drug paraphernalia and have since been removed. This requires background knowledge of previous versions of the state law to ensure that the references had at one time been included in the law, and were deliberately removed in an effort to reduce barriers to syringe possession. Caution notes are included in states where references to “Needles, syringes, hypodermic devices” and/or “Injection or injecting” are not included in the current version of the state law to provide background knowledge about whether the state had ever included such references in historical versions of the law.
- **Question: “What amount constitutes a crime?”**
 - This question uses state level court cases to identify if there are exceptions allowing for the possession of residue in a syringe. States that are coded “Any” do not have exceptions for the possession of residue in a syringe. States that are coded “Measurable or Identifiable” have exceptions that allow for the possession of a syringe with residue, as long as the amount of residue in the syringe is not measurable or identifiable. Finally, states that are coded “Usable” have exceptions that allow for the possession of a syringe with residue, as long as the amount of residue in the syringe is not usable.

For additional information about questions, responses, variable names, and values, please see the project’s Codebook at www.LawAtlas.org.

V. Quality Control

- a. **Quality Control – Research:** Discrepancies were reviewed by a supervising researcher and resolved by further research. Research was compared to the results of an existing compilation of syringe possession law, available at: <http://www.temple.edu/lawschool/phrhcs/phrhcs.htm>.
- b. **Quality Control – Coding:** After the researchers completed coding their laws for their respective 25 states, a third researcher who had not yet participated in any of the research independently coded a random selection of 15% of all the laws.

Divergences were resolved in a meeting of all researchers. Ambiguities in coding or systematic errors were identified and the full data set adjusted and recoded as necessary.

VI. Update August 2013

- a. **Scope:** The general scope of the dataset did not change in this update. However, the team compiled states laws that were newly enacted, and amendments to existing laws. The time period covered includes laws in effect from July 1, 2012 through August 1, 2013.

- b. Data Collection Methods:** Legal research was conducted between March 25, 2013 and August 1, 2013.

The research sought to identify all included laws enacted between January 1, 2012 and August 31, 2013.

Research was conducted by one researcher.

Searches for enacted bills amending the included controlled substances possession laws were conducted in the current (Multistate Legislative Service - (LEGIS-ALL)) and historical (Multistate Legislative Service - Historical (LEGIS- OLD)) enacted bill libraries of Westlaw. The following search was used in LEGIS- OLD: "CONTROLLED SUBSTANCE" & POSSESS! & da(aft 12/31/2010) % "MOTOR VEHICLE". The following search was used in LEGIS-ALL: "CONTROLLED SUBSTANCE" & POSSESS! & da(aft 7/31/2012) and SYRINGE NEEDLE PARAPHERNALIA "HYPODERMIC DEVICE" "NEEDLE /3 EXCHANGE" "SYRINGE /3 EXCHANGE" & da(aft 12/31/2010). The following search was used in LEGIS-ALL: SYRINGE NEEDLE PARAPHERNALIA "HYPODERMIC DEVICE""NEEDLE /3 EXCHANGE" "SYRINGE /3 EXCHANGE" & da(aft 7/31/2012). Cases interpreting the minimum amount of controlled substances necessary for a criminal possession violation were identified by West headnote "96H k29 k. Substance and quantity possessed" in all states after December 31, 2010.

Fourteen documents were returned in LEGIS-OLD, of which four met the inclusion criteria. No documents were returned in LEGIS-ALL.

- c. Coding Updated Findings:** Two researchers, the supervising researcher and the content expert coded the dataset. The team collectively worked on coding the first 10 states, redundantly coding two states: Alabama and California. The two legal researchers coded the remaining states, and redundantly coded Iowa, Kentucky, Michigan, Nebraska, Ohio, Rhode Island, Utah and Wyoming.

- d. Quality Control:** While the researchers coded, the supervising researcher performed quality control. Quality control consisted of exporting the data into a Microsoft Excel document each day the researchers were coding to examine the data for any missing entries, caution notes, and divergences in the redundantly coded states. The content expert also performed random spot checks of the coding.

The supervising researcher used a Coding Review Sheet to note any issues in the data. The Coding Review Sheet was also used to assign a resolution, and track whether the resolution had been carried out. The Coding Review Sheet was sent to the researchers each day. Weekly coding meetings were held to discuss the caution notes and the best way to resolve any problems with the data. For this dataset, some caution notes were left in the dataset to provide additional information to the end user where a state had unusual or noteworthy law. For this dataset, four of the redundantly coded states, specifically

Kentucky, Michigan, Rhode Island and Wyoming were re-coded, and reviewed at the end of coding.

When the two researchers completed coding a naïve coder was brought on to code 15% of the states. Eight random states, Alabama, Arkansas, Florida, Kentucky, Maine, New Hampshire, North Carolina and Pennsylvania, were selected using the Microsoft Excel random number generator feature. The overall rate of divergence was 5%. In July 2013 a Naïve Coding Meeting was held to discuss all of the divergences found.

When coding was completed, Workbench summary sheets were used by the supervising researcher and the content expert to check the data and ensure that it was coded properly. Problems were identified in Tennessee, South Carolina and Montana. The supervising researcher and the content expert used Westlaw and HeinOnline to confirm the parent question regarding whether state law prohibits possession of drug paraphernalia, controlled objects, or drug-related objects and its child questions were coded properly by examining the statutory history of the relevant laws as well as any relevant case law. Once the correct answer was confirmed, a caution note was added to these states to identify nuances in the law.

VII. Update January 2015

a. Scope: The general scope of the dataset did not change in this update. However, the team compiled states laws that were newly enacted, and amendments to existing laws. The time period covered includes laws in effect from July 1, 2012 through January 1, 2015.

b. Data Collection Methods: Research was conducted by one researcher. The research sought to identify all included laws enacted between August 2013 and January 31, 2015.

Searches were conducted in the state statute and regulation libraries of OpenStates, state legislative websites, Westlaw and LexisNexis using the following search terms: “syringe” “needle” “drug paraphernalia” “hypodermic device” & “syringe exchange.”

Statutes and regulations were included if they defined syringes and hypodermic needles as drug paraphernalia and/or regulated the sale of hypodermic needles.

c. Coding Updated Findings: The researcher found amendments and coded new records in 13 states: Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Illinois, Indiana, Maryland, North Carolina, New Hampshire, New York, South Dakota, and, Wisconsin. A total of 28 records were added to the dataset pursuant to the update.

d. Quality Control: While the researchers coded, the project manager performed quality control. The project manager downloaded all coding data into Microsoft Excel after the researcher coded updated laws in 13 states and examined the data for any missing entries, caution notes, and divergences between the updated records and previously coded records in each state. Each divergence was analyzed to determine whether it was accurately based

upon a change in the state's law, or was incorrectly coded. Any divergence not based upon a change in state law was resolved and recoded.

20% of the updated records (6 records) were redundantly coded by a naïve researcher. The project manager downloaded the redundantly coded records in Excel and identified coding errors and divergences between originally and redundantly coded records. The rate of divergence was 29%. All divergences were identified by the supervisor and discussed and resolved by the supervisor and researchers in a coding review meeting.

VIII. Update April 2015

- a. Scope:** The general scope of the dataset did not change in this update. However, the team compiled states laws that were newly enacted, and amendments to existing laws. The time period covered includes laws in effect from July 1, 2012 through April 1, 2015.
- b. Data Collection Methods:** Research was conducted by one researcher. The research sought to identify all included laws enacted between January 2015 and April 2015.

Searches were conducted in the state statute and regulation libraries of OpenStates, State websites, Westlaw and Lexis Nexis using the following search terms: (“syringe” “needle” “drug paraphernalia” “hypodermic device” & “syringe exchange.”

Statutes and regulations were included if they defined syringes and hypodermic needles as drug paraphernalia and/or regulated the sale of hypodermic needles.

- c. Coding Updated Findings:** The researcher found an amendment and coded a new iteration for Kentucky.
- d. Quality Control:** The subject matter expert, Scott Burris, coded Kentucky. One researcher redundantly coded Kentucky, while the update supervisor performed quality control. Quality control consisted of exporting the data into a Microsoft Excel document each day the researcher coded to examine the data for any missing entries, caution notes, and divergences in the redundantly coded states. The rate of divergence was 0%.

IX. Update March 2016

- a. Scope:** The general scope of the dataset did not change in this update. However, the team compiled states laws that were newly enacted, and amendments to existing laws. The time period covered includes laws in effect from July 1, 2012 through March 1, 2016.
- b. Data Collection Methods:** Research was conducted by one researcher and one update supervisor. The research sought to identify all included laws enacted between April 2015 and March 2016.

Searches were conducted in the state statute and regulation libraries of OpenStates, State websites, Westlaw and Lexis Nexis using the following search terms: (“syringe” “needle” “drug paraphernalia” “hypodermic device” & “syringe exchange.”

Statutes and regulations were included if they defined syringes and hypodermic needles as drug paraphernalia and/or regulated the sale of hypodermic needles. Statutes and regulations were excluded if they addressed wholesale distribution, or only industrial or agricultural uses.

- c. **Coding Updated Findings:** The researcher found amendments and coded new iterations for Alabama, Colorado, Connecticut, the District of Columbia, Delaware, Georgia, Idaho, Illinois, Indiana, Massachusetts, Maryland, Maine, North Carolina, North Dakota, New Hampshire, Nevada, New York, Oregon, Tennessee, Texas, and Utah.
- d. **Quality Control:** The update supervisor redundantly coded 20% of the new records which were created in the update. Quality control consisted of exporting the data into a Microsoft Excel document each day the researcher coded to examine the data for any missing entries, caution notes, and divergences in the redundantly coded states. The rate of divergence was 0%.

X. Update July 2017

- a. **Scope:** The general scope of the dataset did not change in this update. However, the team compiled state laws that were newly enacted, and amendments to existing laws. The time period covered includes laws in effect from July 1, 2012 through July 1, 2017.
- b. **Data Collection Methods:** Research was conducted by two researchers and one update supervisor. The research sought to identify all included laws enacted between March 2016 and July 2017.

Searches were conducted in the state statute and regulation libraries of OpenStates, State websites, Westlaw and Lexis Nexis using the following search terms: (“syringe” “needle” “drug paraphernalia” “hypodermic device” & “syringe exchange.”

Statutes and regulations were included if they defined syringes and hypodermic needles as drug paraphernalia and/or regulated the sale of hypodermic needles. Statutes and regulations were excluded if they addressed wholesale distribution, or only industrial or agricultural uses. The researchers created new records with updated legal text for states with new laws or changes to existing laws.

- c. **Coding Updated Findings:** Twenty-one states (AL, CO, CT, DC, DE, GA, ID, IL, IN, MA, MD, ME, NC, ND, NH, NV, NY, OR, TN, TX, UT) had amended, or enacted new laws relevant to the dataset.

d. Quality Control – Research: The first batch of 10 jurisdictions was redundantly researched at a rate of 100% by the researchers, revealing no divergences in updated laws. For subsequent batches, 20% of jurisdictions were redundantly researched by the researchers. The supervisor reviewed both researchers' results to ensure that all amendments were accurately captured.

e. Quality Control – Redundant Coding: Redundant coding was performed at a rate of 100% on each of the five batches of coding. Each batch consisted of 10 jurisdictions, except for the final batch, which consisted of 11 jurisdictions. The first batch of coding was redundantly coded at a rate of 100%. The divergence rate was 0%.

The second batch of coding saw no substantive updates. Redundant coding was not necessary.

The third batch of coding was redundantly coded at a rate of 100%. The rate of divergence was 11.54%. All divergences were discussed in a meeting between the supervisor and the researchers, and were resolved.

The fourth batch of coding saw no substantive updates. Redundant coding was not necessary.

The fifth batch of coding saw no substantive updates. Redundant coding was not necessary.

f. Quality Control – Statistical Quality Control: In order to assess the overall error rate of the dataset, Statistical Quality Control (SQC) was performed after all of the original and redundant coding was completed. A sample of 9.9% percent of the dataset's questions was selected to be checked, with the sample selected based on the risk level of each question. Questions which, when wrong, could impact other questions, were raised in risk level. High risk questions were parent questions from the dataset. Medium risk questions were child level questions, as well as variables from records prior to 2013. This was done to oversample initial records in order to re-verify the dataset's original coding. Low risk questions were grandchild level questions, plus variables propraexyn after 2012. With a total of 3213 potential variables, a sample of 320 variables was selected. Of those, 26% (83 variables) were high risk, 54% (173 variables) were medium risk, and 24% (64 variables) were low risk. With only two divergences out of a potential of 320 variables, the divergence rate was 0.625%.

g. Quality Control – Final Check: Prior to publication, the Supervisor downloaded all coding data into Microsoft Excel to do a final review of coding answers, statutory and regulatory citations, and caution notes. All unnecessary caution notes were deleted and all necessary caution notes were edited for publication. Any responses which were inconsistent with the project's coding rules were updated. Any missing citations were added.

The data went through a final check using Stata. All variables were checked to ensure they had 153 coding instances (i.e. no missing values), for a total of 3213 coding instances checked (153 records multiplied by 21 variables). All variables were tabbed to ensure that all values were consistent with the codebook options for the values of the variables. In addition, using Microsoft Excel, the effective dates and valid-through dates for every record were checked to ensure there were no gaps between them, such that every jurisdiction had records from 7/1/2012 until 7/1/2017.