1	L.D. 1364
2	Date: (Filing No. H- )
3	CRIMINAL JUSTICE AND PUBLIC SAFETY
4	Reproduced and distributed under the direction of the Clerk of the House.
5	STATE OF MAINE
6	HOUSE OF REPRESENTATIVES
7	131ST LEGISLATURE
8	FIRST SPECIAL SESSION
9 10	COMMITTEE AMENDMENT " " to H.P. 878, L.D. 1364, "An Act to Prevent Opioid Overdose Deaths by Establishing Safe Consumption Sites"
11	Amend the bill by striking out the title and substituting the following:
12 13	'An Act to Prevent Opioid Overdose Deaths by Authorizing Harm Reduction Health Centers'
14 15	Amend the bill by striking out everything after the enacting clause and inserting the following:
16	'Sec. 1. 5 MRSA §20056 is enacted to read:
17	§20056. Harm reduction health centers
18 19	1. <b>Definitions.</b> As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
20 21 22 23	A. "Client" means a person who is allowed by a center approved under this section to consume previously obtained controlled substances on the premises or who receives health screening, disease prevention, recovery assistance or other services offered by the center on the premises of the center.
24 25 26	B. "Harm reduction health center" or "center" means a facility that provides health screening, disease prevention and recovery assistance services and that allows persons to consume previously obtained controlled substances on the premises.
27	C. "Protected person" means a person acting in accordance with this section, including:
28	(1) A client;
29	(2) A municipal employee involved in the approval of a center under this section;
30	(3) An owner or employee of a center approved under this section;
31 32	(4) A volunteer or other individual performing services at a center approved under this section; and

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1 2	(5) An owner or manager of property on which a center approved under this section is operating.
3 4 5 6 7 8	2. Municipal approval. Notwithstanding any provision of law to the contrary, a center may not operate in a municipality without approval from that municipality in accordance with this section. A municipality may approve a center that meets the requirements of subsection 3. Prior to approving a center, the municipality shall hold a public hearing with an opportunity for public comment regarding the center. Notice of the meeting must be sufficient to ensure adequate participation in the meeting by members of the public.
9 10	3. Center requirements. To qualify for municipal approval under subsection 2, a center must:
11 12 13	A. Provide a hygienic location supervised by a health care professional and other trained staff where a client may self-administer previously obtained controlled substances;
14 15 16	B. Provide sterile drug use supplies, collect used hypodermic apparatuses, provide secure hypodermic apparatus disposal services and provide education about the safe disposal of hypodermic apparatuses;
17 18	C. Provide overdose prevention education, including information on obtaining naloxone hydrochloride;
19	D. Distribute and administer naloxone hydrochloride;
20 21 22 23	E. Develop an overdose response protocol for monitoring clients while in the center, including, but not limited to, a response for opioid and stimulant overdoses, use of a pulse oximeter, administration of naloxone hydrochloride, administration of cardiopulmonary resuscitation and use of an automated external defibrillator;
24 25 26	F. Provide testing for human immunodeficiency virus, viral hepatitis and sexually transmitted diseases and educate clients on the risks of contracting human immunodeficiency virus, viral hepatitis and sexually transmitted diseases;
27 28	G. Provide referrals to services, including substance use disorder counseling and treatment, primary medical care, mental health services and social services;
29	H. Establish eligibility criteria for clients;
30 31	I. Require that all center staff present during open hours be certified in cardiopulmonary resuscitation and first aid;
32 33	J. Require that all center staff present during open hours be authorized and trained to provide emergency administration of naloxone hydrochloride;
34	K. Have an established relationship with the nearest hospital emergency department;
35 36 37 38	L. Establish operating procedures for the center, including, but not limited to, standard hours of operation, training standards for center staff, a minimum number of center staff members required to be at the center during the hours of operation and the maximum number of clients who can be served at one time;
39	M. Establish a plan for center staff and workplace safety;

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N. Provide reasonable and adequate security of the facility and equipment;

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1 2 3	O. Establish and make public a policy that facilitates communication from and to neighboring businesses and residences to address any neighborhood concerns or complaints; and
4	P. Be funded wholly through grants or private donations.
5 6 7	As a condition of approval under subsection 2, the municipality shall require the center to provide an annual report in accordance with subsection 4 and to conduct a peer-reviewed study in accordance with subsection 5.
8 9 10	4. Annual report. As a condition of approval under subsection 2, a municipality shall require the center to provide an annual report to the municipality and to the department that includes:
11	A. The number of clients using the center;
12	B. Aggregate information regarding the demographics of clients;
13 14	C. The number of overdoses experienced and the number of overdoses reversed at the center; and
15 16	D. The number of clients referred to substance use disorder treatment, primary medical care or similar services.
17 18 19 20	5. Peer-reviewed study. As a condition of approval under subsection 2, a municipality shall require the center to partner with an independent entity or organization to conduct a peer-reviewed study of the information provided pursuant to subsection 4 and any other data gathered by the center regarding:
21 22 23 24 25	A. The efficacy of the center, including, but not limited to, number of clients using the center, aggregate information regarding demographics of the clients, overdoses at the center, overdose reversals at the center, clients referred to treatment, hospitalizations of clients after treatment at the center, fatalities in hospitals after treatment at the center and fatalities at the center; and
26 27 28	B. Effects on the community of the center, including, but not limited to, an increase or decrease in crime, hypodermic apparatus litter, public drug use and aggregate information on the attitudes of nearby businesses and community members.
29 30 31 32 33 34 35	An independent entity or organization conducting a study under this subsection must be a private, nonprofit and nonpartisan research organization or a research university in the United States. The cost of a study under this subsection must be paid by the center and must be wholly funded through grants or private donations. Upon completion of a study under this subsection, the center must provide a copy of the study report to the municipality that approved the center and to the department, which shall submit a copy to the Legislature and to the Governor's office.
36 37 38	6. Immunity from arrest or prosecution. Notwithstanding any provision of law to the contrary, a protected person acting in accordance with this section is immune from arrest or prosecution for a violation of law if the grounds for the arrest or prosecution are

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This subsection does not create any immunity for a person with respect to any activity of

the protected person's actions in accordance with this section.

the person that is not authorized or approved under this section.

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1	7. Immunity from revocation or termination proceedings. Notwithstanding any
2	provision of law to the contrary, a protected person acting in accordance with this section
3	is immune from revocation proceedings with regard to conditions of release as described
4	in Title 15, chapter 105-A, subchapter 5; probation as described in Title 17-A, chapter 67,
5	subchapter 1; administrative release as described in Title 17-A, chapter 67, subchapter 2;
6	or supervised community confinement as described in Title 34-A, section 3036-A and is
7 8	immune from termination proceedings for deferred disposition violations as described in Title 17-A, chapter 67, subchapter 4 or termination from community confinement
9	monitoring as described in Title 30-A, section 1659-A, if the grounds for the revocation or
10	termination proceeding against the protected person are the protected person's actions in
11	accordance with this section.
12	This subsection does not create any immunity for a person with respect to any activity of
13	the person that is not authorized or approved under this section.
14	8. Motion to determine immunity. A defendant in a criminal proceeding may move
15	that the court prior to trial determine whether the defendant is immune from prosecution or
16	revocation or termination proceedings pursuant to subsection 6 or 7. Once the defendant
17	has filed a motion and has presented evidence to establish immunity, the prosecution has
18	the burden of proving by clear and convincing evidence that the grounds for immunity do
19	not apply to the defendant. The court may hear testimony and shall make factual and legal
20	findings as necessary to determine immunity.
21	9. Additional protections. Notwithstanding any provision of law to the contrary, a
22	protected person acting in accordance with this section may not, on the basis of that action,
23	<u>be:</u>
24	A. Subject to any civil or administrative penalty, including civil or disciplinary action
25	by a professional licensing board;
26	B. Denied any right or privilege for involvement in the operation or use of services of
27	a center;
28	C. Subject to the seizure or forfeiture of any real or personal property used in
29	connection with a center;
30	D. Subject to inspection under Title 22, section 454-A, subsection 2, paragraph E or
31	similar inspection requirements as provided by law; or
32	E. Subject to any adverse medical or employment action with respect to the action or
33	subject to any civil or contractual liability with respect to the action, except that a
34	contract entered into in accordance with this section may be the subject of litigation to
35	interpret or enforce the contract and liability for breach imposed.
36	This subsection does not provide any protections to a person with respect to any activity of
37	the person that is not authorized or approved under this section.'
38	Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
39	number to read consecutively.

SUMMARY

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This amendment, which is the majority report of the committee, replaces the bill and changes the title. It authorizes municipalities to approve harm reduction health centers at

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which clients may receive health screening, disease prevention and recovery assistance
services and may self-administer previously obtained controlled substances on the
premises. The amendment also provides immunity from arrest, prosecution, revocation
proceedings or termination proceedings for persons using, employed by or otherwise
associated with a harm reduction health center when acting in accordance with the
provisions of the amendment. It also provides additional protections to such persons for
actions in accordance with those provisions.

## FISCAL NOTE REQUIRED

(See attached)

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