



**Establishment of Supervised Opioid Injection Sites
(the Safer Consumption Services Act)
(Bill S.399-A-Rivera/A.338-A-Rosenthal)
Memorandum of Opposition**

Bill S.399-A-Rivera/A.338-A-Rosenthal would allow the New York State Department of Health (NYSDOH) to approve the creation of supervised opioid injection sites in the state of New York.

The sponsors of this legislation are correct about one thing: Opioid-related deaths are a serious and growing problem that requires government action. According to NYSDOH, 4,766 New Yorkers died of opioid overdoses in 2021.¹ This public health crisis has brought grievous harm to countless New Yorkers and their families, and state government should address it through increased in-patient treatment capacity, emergency shelter services, continued crackdowns on illegal opioid sales,² expanded naloxone availability, and stepped-up prevention efforts. Supervised injection sites, however, offer a band-aid approach to a complex problem.

Supervised injection sites are problematic for several reasons. First, such sites are illegal under the federal Controlled Substances Act.³ While the bill includes immunity provisions for supervised injection sites' employees, participants, and landlords, those provisions would be useless if the federal government took enforcement action. Second, supervised injection sites have the potential to become magnets for drug dealers and to adversely affect the neighborhoods in which they are located; Staten Island District Attorney Michael

¹ See https://health.ny.gov/press/releases/2023/2023_01-17_opioid_quarterly_report.htm, last accessed March 21, 2023.

² See <https://www.northamericarecovers.org>, last accessed March 21, 2023.

³ See <https://www.justice.gov/opa/pr/appellate-court-agrees-government-supervised-injection-sites-are-illegal-under-federal-law>, last accessed March 21, 2023.

McMahon has criticized New York City's two existing supervised injection sites for exactly these reasons.⁴ Third, and most importantly, supervised injection sites are short-sighted. Inviting persons with addictions to inject drugs in a supervised environment benefits them in the short term by temporarily getting them off of the streets and offering them emergency interventions if they overdose.⁵ In the long term, however, this "harm reduction" approach can perpetuate addictive behavior. District Attorney McMahon describes supervised injection sites as "the normalization, funding, and endorsement of continued drug use and the negative impacts on the surrounding community that unavoidably come with it." While this bill is referred to as the "Safer Consumption Services Act," there really is no safe way to use intravenous opioids. To truly help people who are hooked on these deadly drugs, the state of New York must guide them into recovery services so that they can overcome their addictions.

The sponsors of this legislation are respectfully encouraged to abandon the push for supervised injection sites and to instead focus their efforts on significantly expanding New York's available in-patient treatment services for persons addicted to opioids, and on providing funding to enable low and moderate-income New Yorkers to access such services. New Yorkers for Constitutional Freedoms would be pleased to support such efforts, but we cannot support this bill.

⁴ According to *City & State New York*, District Attorney McMahon has asserted that New York City's two supervised injection sites "cause far more harm than good. The simple fact is that two safe injection sites have existed in New York City for the past year, and in that time fatal overdoses have reached new highs and the quality of life for residents who live near these centers has reached new lows." See <https://www.cityandstateny.com/power-lists/2023/03/new-yorks-district-attorneys-all-across-political-spectrum/384185/>, last accessed March 21, 2023.

⁵ Supervised injection sites that treat overdose victims with naloxone do prevent some overdose deaths. Strangely, however, the proposed legislation would make it optional for supervised injection sites to provide naloxone. Such sites would be permitted to refer participants to other places where they could receive naloxone.