

Preventing Overdose and Substance Misuse



Legislative Prospectus Series: 2025 Public Health Spotlight

Introduction

Preventing the [misuse of substances](#) and resulting negative health outcomes and injuries continues to be a [top priority](#) for public health officials. After years of steadily rising overdose fatalities, 2023 marked the first [significant decrease in overdose deaths](#) across the United States since 2018. To continue reducing fatal overdose rates, state and territorial legislatures are considering measures to expand harm reduction efforts, support incarcerated people's recovery with policies linking them to care, and regulate substances that have the potential for misuse.

Legislative Trends

Harm Reduction Policies Prevent Overdose

Policies equipping people who use drugs with tools to prevent overdose or disease transmission, known generally as [harm reduction](#), are an evidence-based public health intervention. Legislatures nationwide are expanding access to drug checking equipment, such as testing strips for fentanyl and xylazine.

During the 2024 legislative sessions, at least 18 states considered legislation to decriminalize drug checking equipment. Two states, Wisconsin ([SB 875](#)) and West Virginia ([SB 269](#)), passed laws legalizing xylazine test strips. Wisconsin's law decriminalized xylazine test strips exclusively, while West Virginia's law excluded drug testing strips from their definition of drug paraphernalia thus decriminalizing fentanyl testing strips, xylazine testing strips, and any other testing strips.

Additionally, several states expanded previous efforts to decriminalize drug checking equipment. Illinois passed [SB 3350](#), which allows the Illinois Department of Human Services to dispense and distribute fentanyl test strips and provide training to use them. California passed [AB 461](#), requiring state universities and community colleges to notify students where they can find fentanyl test strips and naloxone, and to distribute both accordingly on campus.

Supporting Linkage to Care

After incarceration, people with substance use disorder [face a significantly high risk of overdose](#), especially in the days and weeks immediately after their release. Evidence also shows that drug overdose is the [leading cause of death](#) for people who are released from incarceration. As a result, some states are providing medical assisted treatment (MAT) in jails and prisons so people can continue treatment after their release.

In 2024 at least five states considered legislation supporting linking care to those currently or recently incarcerated. Colorado enacted [HB 24-1045](#), requiring their Department of Health Care Policy and Financing to seek federal authorization to provide MAT, case management services, and a 30-day supply of prescription medication to Medicaid recipients upon release from jail or a juvenile institutional facility. Oregon passed [HB 4002](#) that establishes the Oregon Jail-Based Medications for Opioid Use Disorder Grant Program. Both Colorado and Oregon's new laws prohibit private insurers from requiring prior authorization for FDA-approved MAT prescription medications, which can help with more immediate access to treatment.

Additionally, Utah enacted [HB 501](#) that requires the department to apply for a Medicaid waiver allowing eligible adults and youth who are incarcerated to apply for and receive Medicaid coverage up to 90 days prior to release to aid in setting them up for care continuity.

Substance Regulation

Public health leaders are exploring ways to reduce abuse or misuse potential of unregulated substances including [kratom](#) (an herb that can produce opioid-like effects when consumed) and products derived from the Cannabis sativa plant like [Delta-8 tetrahydrocannabinol](#) ("Delta-8"). State legislatures are considering bills to limit access to these products, often restricting the age of sale, adding labeling requirements, or adding them to the state's drug schedule.



At least 24 states considered, and seven states passed, legislation to regulate or limit access to kratom in 2024. Texas enacted [SB 497](#), restricting the sale to people under the age of 18 and prohibiting kratom processors from using poisonous or otherwise deleterious non-kratom substances in their products. Three states—Georgia ([HB 181](#)), Kentucky ([HB 293](#)), and Maryland ([HB 1229](#))—passed legislation restricting the sale of kratom to people under the age of 21 and establishing product labeling standards (e.g., including the amount of kratom contained in the product). Georgia’s new law also bans ingesting kratom by using a heat source that can be used to produce a vapor such as e-cigarettes or vapes and requires that it be stored only behind the counter in secured displays within a store.

Oklahoma ([HB 3574](#)) and West Virginia ([SB 679](#)) passed legislation amending labeling requirements for kratom products. Oklahoma’s new law outlines specific additional labeling requirements that include product and ingredients, federal food allergen requirements, and health safety warnings. Such warnings would specifically suggest consulting a healthcare professional on use, indicating the product may be habit-forming, and would prohibit labels from making a therapeutic claim unless approved by FDA.

At least 16 states considered bills related to products derived from Cannabis sativa or hemp. Louisiana enacted [HB 952](#), which prohibits the sale of hemp-derived consumable products to those under 21 years of age, prohibits sales at gas stations, requires retailers and wholesalers to be permitted, and that products be approved by the health department. Florida’s governor [vetoed](#) a bill ([SB 1698](#)) that sought to prohibit businesses and food establishments from possessing hemp extract products that are attractive to children, stating it would disrupt small businesses.

Center for Medicaid and Medicare Services (CMS)— which approves changes to state Medicaid plans or waivers—[released guidance](#) encouraging states to test transition-related strategies to support community reentry for people who are incarcerated through 1115 demonstration waivers. As of August 2024, CMS has [approved eleven 1115](#) reentry waiver requests with at least 13 additional reentry waivers pending.

Legislative Trends

ASTHO anticipates states and territories to continue considering and adopting laws to prevent substance misuse and overdose, including those that:

- Decriminalize drug-checking equipment, like fentanyl test strips and xylazine test strips.
- Expand coverage for peer support specialists and establish baseline standards for peer support specialists for substance use.
- Support access to FDA-approved over-the-counter opioid antagonists.
- Develop more innovative policies to promote linking incarcerated persons or those recently released to treatment and care.
- Establish state regulatory frameworks for commercially available substances with the potential for misuse, including kratom and Delta-8.

Missouri’s Governor tasked the health department with enforcing an August 2024 [executive order](#) prohibiting the sale of foods containing psychoactive cannabis compounds unless they originated from an approved source and prohibiting retail establishments with a liquor license from selling cannabis products.



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