

## **BILL ANALYSIS**

Senate Research Center  
88R23893 CJD-F

C.S.S.B. 1388  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Supervised drug consumption sites are illegal under federal law. However, the United States Department of Justice (DOJ) turned a blind eye to the opening of a San Francisco site in 2021 and the subsequent opening of two such sites in New York City. Since then, the DOJ has signaled it is close to an "amicable resolution" in its settlement talks with the country's first proposed supervised drug consumption site in Philadelphia. Last month, legislation was filed in Colorado to allow supervised drug consumption sites. This week, the New York State Assembly passed legislation to allow such sites.

These sites are inherently dangerous for society. North America's first supervised drug consumption site opened in Vancouver, British Columbia, in 2003. Since then, 39 sites have opened throughout the country—and illicit drug toxicity deaths have risen by over 700 percent. Additionally, a health organization that manages injection sites in Canada estimated that only about 10 percent of their users enter treatment. Drug consumption sites also endanger the surrounding community.

As drug users gather, so do drug traffickers who prey on them. An injection site in Melbourne, Australia, became a "one-stop-shop for crime," according to local police, and a Canadian consumption site fostered "open-air drug trafficking," according to the police chief in Calgary. In Philadelphia, the local police union echoed these concerns, warning that an injection site would bring increased crime to their community, including violent crime among drug dealers seeking to protect their turf. Further, these sites contradict our state's criminal drug laws. If it is illegal for a dealer to dispense drug paraphernalia, it should be the same for those in government.

S.B. 1388 mirrors current federal law that currently prohibits the operation of such sites. Any person who knowingly operates such a site would be charged with a second degree felony.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1388 amends current law relating to creating the criminal offense of operating a premises for unlawful controlled substance consumption.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 481, Health and Safety Code, by adding Section 481.142, as follows:

Sec. 481.142. OFFENSE: OPERATING PREMISES FOR UNLAWFUL CONTROLLED SUBSTANCE CONSUMPTION. (a) Defines "premises."

(b) Provides that a person commits an offense if the person:

(1) owns, rents, leases, manages, or otherwise controls any premises, permanently or temporarily; and

(2) knowingly:

(A) operates the premises for the purpose of allowing persons on the premises to use a controlled substance in violation of Chapter 481 (Texas Controlled Substance Act);

(B) rents, leases, or otherwise profits from a premises described by Subdivision (1) that is operated or otherwise made available for the purpose of allowing persons on the premises to use a controlled substance in violation of this chapter; or

(C) regardless of whether compensation is expected or received, makes the premises available to others for the purpose of allowing persons on the premises to use a controlled substance in violation of this chapter.

(c) Provides that an offense under this section is a felony of the second degree.

(d) Provides that this section does not apply to conduct engaged in with respect to a premises on which controlled substances are consumed pursuant to a valid prescription, including a facility for medication-assisted treatment for opioid or substance use disorder.

(e) Authorizes the actor to be prosecuted under this section, the other law, or both, if conduct that constitutes an offense under this section also constitutes an offense under any other law.

SECTION 2. Effective date: September 1, 2023.