

CHAPTER 2019-143

Committee Substitute for Committee Substitute for Senate Bill No. 366

An act relating to infectious disease elimination programs; providing a short title; amending s. 381.0038, F.S.; providing that a county commission may authorize a sterile needle and syringe exchange program; defining the term “exchange program”; prohibiting the establishment of an exchange program under certain conditions; providing requirements for establishing an exchange program; specifying entities that may operate an exchange program; requiring the development of an oversight and accountability system for certain purposes; specifying requirements for exchange programs; requiring the collection of data and submission of reports; authorizing the Department of Health to adopt certain rules; providing for immunity from civil liability, under certain circumstances; authorizing the continuation of a specified pilot project under certain circumstances; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the “Infectious Disease Elimination Act (IDEA).”

Section 2. Subsection (4) of section 381.0038, Florida Statutes, is amended to read:

381.0038 Education; sterile needle and syringe exchange programs ~~pilot program~~.—The Department of Health shall establish a program to educate the public about the threat of acquired immune deficiency syndrome.

(4) A county commission ~~The University of Miami and its affiliates~~ may authorize ~~establish~~ a single sterile needle and syringe exchange pilot program ~~to operate within its county boundaries in Miami-Dade County~~. The pilot program may operate at one or more fixed locations a fixed location or through a mobile health units ~~unit~~. The pilot program shall offer the free exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes as a means to prevent the transmission of HIV, AIDS, viral hepatitis, or other blood-borne diseases among intravenous drug users and their sexual partners and offspring. Prevention of disease transmission must be the goal of the program. For the purposes of this subsection, the term “exchange program” means a sterile needle and syringe exchange program established by a county commission under this subsection. A sterile needle and syringe exchange program may not operate unless it is authorized and approved by a county commission in accordance with this subsection.

(a) Before an exchange program may be established, a county commission must:

1. Authorize the program under the provisions of a county ordinance;
 2. Enter into a letter of agreement with the department in which the county commission agrees that any exchange program authorized by the county commission will operate in accordance with this subsection;
 3. Enlist the local county health department to provide ongoing advice, consultation, and recommendations for the operation of the program;
 4. Contract with one of the following entities to operate the program:
 - a. A hospital licensed under chapter 395.
 - b. A health care clinic licensed under part X of chapter 400.
 - c. A medical school in this state accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation.
 - d. A licensed addictions receiving facility as defined in s. 397.311(26)(a)1.
 - e. A 501(c)(3) HIV/AIDS service organization.
- (b)(a) An exchange ~~The pilot~~ program must:

1. Develop an oversight and accountability system to ensure the program's compliance with statutory and contractual requirements. The system must include measurable objectives for meeting the goal of the program and must track the progress in achieving those objectives. The system must require the program operator to routinely report its progress in achieving the objectives and the goal of the program. The system must also incorporate mechanisms to track the program operator's compliance or noncompliance with contractual obligations and to apply consequences for noncompliance. The program must receive the county commission's approval of the oversight and accountability system before commencing operations.

2.1. Provide for maximum security of exchange sites where needles and syringes are exchanged and of any equipment used under the program, including, at a minimum, an accounting of the number of needles and syringes in use, the number of needles and syringes in storage, safe disposal of returned needles, and any other measure that may be required to control the use and dispersal of sterile needles and syringes.

3.2. Operate a one-to-one exchange, whereby a the participant shall receive one sterile needle and syringe unit in exchange for each used one.

4.3. Make available educational materials and referrals to education regarding the transmission of HIV, viral hepatitis, and other blood-borne diseases. The program operator must offer such materials to program participants whenever needles or syringes are exchanged; provide referrals

for drug abuse prevention and treatment; and provide or refer for HIV and viral hepatitis screening.

5. Provide onsite counseling or referrals for drug abuse prevention, education, and treatment, and provide onsite HIV and viral hepatitis screening or referrals for such screening. If such services are offered solely by referral, they must be made available to participants within 72 hours. The county commission in a rural county may, under its contract with the program operator, adjust the 72-hour requirement if the commission finds that the availability of providers warrants an extended timeframe.

6. Provide kits containing an emergency opioid antagonist, as defined in s. 381.887, or provide referrals to a program that can provide such kits.

7. Collect data for annual reporting purposes. The data must include the number of participants served; the number of used needles and syringes received and the number of clean, unused needles and syringes distributed through exchange with participants; the demographic profiles of the participants served; the number of participants entering drug counseling or treatment; the number of participants receiving testing for HIV, AIDS, viral hepatitis, or other blood-borne diseases; and other data that may be required under department rule. However, a participant's personal identifying information may not be collected for any purpose. Each exchange program shall submit a report to its county commission and to the department by August 1 annually. The department shall submit a compilation report encompassing data from all exchange programs annually by October 1 to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The department may adopt rules to implement this subparagraph.

~~(c)~~^(b) The possession, distribution, or exchange of needles or syringes as part of an exchange ~~the pilot~~ program established under this subsection is not a violation of any part of chapter 893 or any other law.

~~(d)~~^(e) An exchange ~~A pilot~~ program staff member, volunteer, or participant is not immune from criminal prosecution for:

1. The possession of needles or syringes that are not a part of the exchange pilot program; or

2. The redistribution of needles or syringes in any form, if acting outside the exchange pilot program.

~~(d)~~ ~~The pilot program must collect data for quarterly, annual, and final reporting purposes. The annual report must include information on the number of participants served, the number of needles and syringes exchanged and distributed, the demographic profiles of the participants served, the number of participants entering drug counseling and treatment; the number of participants receiving testing for HIV, AIDS, viral hepatitis, or other blood-borne diseases; and other data necessary for the pilot~~

~~program. However, personal identifying information may not be collected from a participant for any purpose. Quarterly reports must be submitted to the Department of Health in Miami-Dade County by October 15, January 15, April 15, and July 15 of each year. An annual report must be submitted to the Department of Health by August 1 every year until the program expires. A final report is due on August 1, 2021, to the Department of Health and must describe the performance and outcomes of the pilot program and include a summary of the information in the annual reports for all pilot program years.~~

(e) A law enforcement officer acting in good faith who arrests or charges a person who is thereafter determined to be immune from prosecution under this section shall be immune from civil liability that might otherwise be incurred or imposed by reason of the officer's actions.

~~(f)(e) State, county, or municipal funds may not be used to operate an exchange the pilot program. Exchange programs~~ The pilot program shall be funded through grants and donations from private resources and funds.

~~(f) The pilot program shall expire July 1, 2021.~~

Section 3. Notwithstanding s. 381.0038(4), Florida Statutes, as amended by this act, the pilot program established in Miami-Dade County under chapter 2016-68, Laws of Florida, may continue to operate under that chapter until the Miami-Dade County Board of County Commissioners establishes an exchange program as defined under this act or until July 1, 2021, whichever occurs first.

Section 4. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 5. This act shall take effect July 1, 2019.

Approved by the Governor June 26, 2019.

Filed in Office Secretary of State June 26, 2019.