

1 A bill to be entitled
 2 An act relating to a needle and syringe exchange
 3 program; amending s. 381.0038, F.S.; authorizing the
 4 Department of Health to establish a needle and syringe
 5 exchange program; providing criteria for the program;
 6 providing that the distribution of needles and
 7 syringes under the program is not a violation of the
 8 Florida Comprehensive Drug Abuse Prevention and
 9 Control Act or any other law; providing conditions
 10 under which a program staff member or participant may
 11 be prosecuted; providing for severability; providing
 12 an effective date.

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

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 16 Section 1. Subsection (4) is added to section 381.0038,
 17 Florida Statutes, to read:

18 381.0038 Education; needle and syringe exchange program.-
 19 The Department of Health shall establish a program to educate
 20 the public about the threat of acquired immune deficiency
 21 syndrome.

22 (4) The department may establish a program offering the
 23 free exchange of clean, unused needles and hypodermic syringes
 24 for used needles and hypodermic syringes as a means to prevent
 25 the transmission of the human immunodeficiency virus (HIV),
 26 AIDS, and other blood-borne diseases among intravenous drug
 27 users.

28 (a) The needle and syringe exchange program must meet the

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29 following criteria:

30 1. The program shall provide for maximum security of
31 exchange sites and equipment, including an accounting of the
32 number of needles and syringes in use, the number of needles and
33 syringes in storage, and any other measure that may be required
34 to control the use and dispersal of sterile needles and
35 syringes.

36 2. The program shall strive for a one-to-one exchange,
37 whereby the participant shall receive one sterile needle and
38 syringe unit in exchange for each used one.

39 3. The department shall make available educational
40 materials, HIV counseling and testing, and referral services
41 targeted to education regarding HIV/AIDS transmission and drug
42 use prevention and treatment.

43 (b) Notwithstanding any other provision of law, the
44 possession, distribution, or exchange of needles or syringes as
45 part of a needle and syringe exchange program established by the
46 department is not a violation of any part of chapter 893 or any
47 other law.

48 (c) A needle and syringe exchange program staff member or
49 participant is not immune from criminal prosecution for:

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

52 2. Redistribution of needles or syringes in any form.

53 Section 2. If any provision of this act or its application
54 to any person or circumstance is held invalid, the invalidity
55 does not affect other provisions or applications of the act
56 which can be given effect without the invalid provision or

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57 | application, and to this end the provisions of this act are
58 | severable.

59 | Section 3. This act shall take effect July 1, 2013.