

1 A bill to be entitled
 2 An act relating to infectious disease elimination
 3 programs; providing a short title; amending s.
 4 381.0038, F.S.; authorizing a county commission to
 5 establish a sterile needle and syringe exchange
 6 program; providing a definition; prohibiting the
 7 operation of an exchange program under certain
 8 conditions; providing requirements for establishing an
 9 exchange program; specifying entities that may operate
 10 an exchange program; providing requirements for
 11 exchange programs; requiring the collection of data
 12 and submission of reports; authorizing the Department
 13 of Health to adopt certain rules; providing for
 14 immunity from civil liability under certain
 15 circumstances; authorizing the continuation of a
 16 specified pilot program under certain circumstances;
 17 providing severability; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

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 21 Section 1. This act may be cited as the "Infectious
 22 Disease Elimination Act (IDEA)."

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

25 381.0038 Education; sterile needle and syringe exchange
 26 programs ~~pilot program~~.—The Department of Health shall establish
 27 a program to educate the public about the threat of acquired
 28 immune deficiency syndrome.

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

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

- 49 1. Authorize the program under the provisions of a county
 50 ordinance;
- 51 2. Enter into a letter of agreement with the department in
 52 which the county commission agrees that any exchange program
 53 authorized by the county commission will operate in accordance
 54 with this subsection;
- 55 3. Enlist the local county health department to provide
 56 ongoing advice, consultation, and recommendations for the
 57 operation of the program; and
- 58 4. Contract with one of the following entities to operate
 59 the program:
- 60 a. A hospital licensed under chapter 395.
- 61 b. A health care clinic licensed under part X of chapter
 62 400.
- 63 c. A medical school in this state accredited by the
 64 Liaison Committee on Medical Education or the Commission on
 65 Osteopathic College Accreditation.
- 66 d. A licensed addictions receiving facility as defined in
 67 s. 397.311.
- 68 e. A nonprofit HIV/AIDS service organization that meets
 69 the qualifications of s. 501(c)(3) of the Internal Revenue Code.
- 70 (b)-(a) An exchange ~~The pilot~~ program must:
- 71 1. Develop an oversight and accountability system to
 72 ensure the program's compliance with statutory and contractual
 73 requirements. The system must include measurable objectives for

74 meeting the goal of the program and must track the progress in
75 achieving those objectives. The system must require the program
76 operator to routinely report its progress in achieving the
77 objectives and the goal of the program. The system must also
78 incorporate mechanisms to track the program operator's
79 compliance or noncompliance with contractual obligations and to
80 apply consequences for noncompliance. The program must receive
81 the county commission's approval of the oversight and
82 accountability system before commencing operations.

83 2.1. Provide for maximum security of ~~exchange~~ sites at
84 which needles and syringes are exchanged and of any equipment
85 used under the program, including, at a minimum, an accounting
86 of the number of needles and syringes in use, the number of
87 needles and syringes in storage, safe disposal of returned
88 needles, and any other measure that may be required to control
89 the use and dispersal of sterile needles and syringes.

90 3.2. Operate a one-to-one exchange, whereby a ~~the~~
91 participant shall receive one sterile needle and syringe unit in
92 exchange for each used one.

93 4.3. Make available educational materials ~~and referrals to~~
94 ~~education~~ regarding the transmission of HIV, viral hepatitis,
95 and other blood-borne diseases. The program operator must offer
96 such materials to program participants whenever needles or
97 syringes are exchanged; ~~provide referrals for drug abuse~~

98 ~~prevention and treatment; and provide or refer for HIV and viral~~
99 ~~hepatitis screening.~~

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

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

112 7. Collect data for annual reporting purposes. The data
113 must include the number of participants served; the number of
114 used needles and syringes received and the number of clean,
115 unused needles and syringes distributed through exchange with
116 participants; the demographic profiles of the participants
117 served; the number of participants entering drug counseling or
118 treatment; the number of participants receiving testing for HIV,
119 AIDS, viral hepatitis, or other blood-borne diseases; and other
120 data that may be required under department rule. However, a
121 participant's personal identifying information may not be
122 collected for any purpose. Each exchange program must submit a

123 report to its county commission and to the department annually
 124 by August 1. The department must submit a compilation report
 125 encompassing data from all exchange programs annually by October
 126 1 to the Governor, the President of the Senate, and the Speaker
 127 of the House of Representatives. The department may adopt rules
 128 to implement this subparagraph.

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

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

- 136 1. The possession of needles or syringes that are not a
 137 part of the exchange ~~pilot~~ program; or
- 138 2. The redistribution of needles or syringes in any form,
 139 if acting outside the exchange ~~pilot~~ program.

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

145 ~~(d) The pilot program must collect data for quarterly,~~
 146 ~~annual, and final reporting purposes. The annual report must~~
 147 ~~include information on the number of participants served, the~~

148 ~~number of needles and syringes exchanged and distributed, the~~
149 ~~demographic profiles of the participants served, the number of~~
150 ~~participants entering drug counseling and treatment; the number~~
151 ~~of participants receiving testing for HIV, AIDS, viral~~
152 ~~hepatitis, or other blood-borne diseases; and other data~~
153 ~~necessary for the pilot program. However, personal identifying~~
154 ~~information may not be collected from a participant for any~~
155 ~~purpose. Quarterly reports must be submitted to the Department~~
156 ~~of Health in Miami-Dade County by October 15, January 15, April~~
157 ~~15, and July 15 of each year. An annual report must be submitted~~
158 ~~to the Department of Health by August 1 every year until the~~
159 ~~program expires. A final report is due on August 1, 2021, to the~~
160 ~~Department of Health and must describe the performance and~~
161 ~~outcomes of the pilot program and include a summary of the~~
162 ~~information in the annual reports for all pilot program years.~~

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

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

168 Section 3. Notwithstanding s. 381.0038(4), Florida
169 Statutes, as amended by this act, the pilot program established
170 in Miami-Dade County under chapter 2016-68, Laws of Florida, may
171 continue to operate under that chapter until the Miami-Dade
172 County Board of County Commissioners establishes an exchange

173 | program as defined in s. 381.0038, as amended by this act, or
174 | until July 1, 2021, whichever occurs first.

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

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