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LEGISLATIVE ACTION

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|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/19/2019 | . |       |
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The Committee on Health Policy (Braynon) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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



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11 a program to educate the public about the threat of acquired  
12 immune deficiency syndrome.

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

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

32 1. Authorize the program under the provisions of a county  
33 ordinance;

34 2. Enter into a letter of agreement with the department in  
35 which the county commission agrees that any exchange program  
36 authorized by the county commission will operate in accordance  
37 with this subsection;

38 3. Enlist the local county health department to provide  
39 ongoing advice, consultation, and recommendations for the



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40 operation of the program;  
41 4. Contract with one of the following entities to operate  
42 the program:  
43 a. A hospital licensed under chapter 395.  
44 b. A health care clinic licensed under part X of chapter  
45 400.  
46 c. An accredited medical school associated with a  
47 university in this state.  
48 d. A licensed addictions receiving facility as defined in  
49 s. 397.311.  
50 e. A 501(c)(3) HIV/AIDS service organization.  
51 (b)(a) An exchange ~~The pilot~~ program must:  
52 1. Develop an oversight and accountability system to ensure  
53 the program's compliance with statutory and contractual  
54 requirements. The system must include measurable objectives for  
55 meeting the goal of the program and must track the progress in  
56 achieving those objectives. The system must require the program  
57 operator to routinely report its progress in achieving the  
58 objectives and the goal of the program. The system must also  
59 incorporate mechanisms to track the program operator's  
60 compliance or noncompliance with contractual obligations and to  
61 apply consequences for noncompliance. The program must receive  
62 the county commission's approval of the oversight and  
63 accountability system before commencing operations.  
64 2.1. Provide for maximum security of ~~exchange~~ sites where  
65 needles and syringes are exchanged and of any equipment used  
66 under the program, including, at a minimum, an accounting of the  
67 number of needles and syringes in use, the number of needles and  
68 syringes in storage, safe disposal of returned needles, and any



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69 other measure that may be required to control the use and  
70 dispersal of sterile needles and syringes.

71 32. Operate a one-to-one exchange, whereby a the  
72 participant shall receive one sterile needle and syringe unit in  
73 exchange for each used one. The county commission is authorized  
74 to grant a waiver of this requirement under its contract with  
75 the program operator if the terms of such a waiver require the  
76 operator to maintain the one-to-one ratio except for exigent  
77 circumstances delineated in the waiver.

78 43. Make available educational materials and referrals to  
79 education regarding the transmission of HIV, viral hepatitis,  
80 and other blood-borne diseases. The program operator must offer  
81 such materials to program participants whenever needles or  
82 syringes are exchanged; provide referrals for drug abuse  
83 prevention and treatment; and provide or refer for HIV and viral  
84 hepatitis screening.

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

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

97 7. Collect data for annual reporting purposes. The data



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98 must include the number of participants served; the number of  
99 used needles and syringes received and the number of clean,  
100 unused needles and syringes distributed through exchange with  
101 participants; the demographic profiles of the participants  
102 served; the number of participants entering drug counseling or  
103 treatment; the number of participants receiving testing for HIV,  
104 AIDS, viral hepatitis, or other blood-borne diseases; and other  
105 data that may be required under department rule. However, a  
106 participant's personal identifying information may not be  
107 collected for any purpose. Each exchange program must submit a  
108 report to its county commission and to the department by August  
109 1 annually. The department must submit a compilation report  
110 encompassing data from all exchange programs annually by October  
111 1 to the Governor, the President of the Senate, and the Speaker  
112 of the House of Representatives. The department may adopt rules  
113 to implement this subparagraph.

114 (c)-(b) The possession, distribution, or exchange of needles  
115 or syringes as part of an exchange ~~the pilot~~ program established  
116 under this subsection is not a violation of any part of chapter  
117 893 or any other law.

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

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

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

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



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127 ~~number of needles and syringes exchanged and distributed, the~~  
128 ~~demographic profiles of the participants served, the number of~~  
129 ~~participants entering drug counseling and treatment; the number~~  
130 ~~of participants receiving testing for HIV, AIDS, viral~~  
131 ~~hepatitis, or other blood-borne diseases; and other data~~  
132 ~~necessary for the pilot program. However, personal identifying~~  
133 ~~information may not be collected from a participant for any~~  
134 ~~purpose. Quarterly reports must be submitted to the Department~~  
135 ~~of Health in Miami-Dade County by October 15, January 15, April~~  
136 ~~15, and July 15 of each year. An annual report must be submitted~~  
137 ~~to the Department of Health by August 1 every year until the~~  
138 ~~program expires. A final report is due on August 1, 2021, to the~~  
139 ~~Department of Health and must describe the performance and~~  
140 ~~outcomes of the pilot program and include a summary of the~~  
141 ~~information in the annual reports for all pilot program years.~~

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

147 (f) State, county, or municipal funds may not be used to  
148 operate an exchange the pilot program. Exchange programs may  
149 the pilot program shall be funded fully or partially through county  
150 commission expenditures or through grants and donations from  
151 private resources and funds.

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

153 Section 3. Notwithstanding s. 381.0038(4), Florida  
154 Statutes, as amended by this act, the pilot program established  
155 in Miami-Dade County under chapter 2016-68, Laws of Florida, may



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156 continue to operate under that chapter until the Miami-Dade  
157 County Board of County Commissioners establishes an exchange  
158 program as defined under this act or until July 1, 2021,  
159 whichever occurs first.

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

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

167  
168 ===== T I T L E A M E N D M E N T =====

169 And the title is amended as follows:

170 Delete everything before the enacting clause  
171 and insert:

172 A bill to be entitled  
173 An act relating to infectious disease elimination  
174 programs; providing a short title; amending s.  
175 381.0038, F.S.; providing that a county commission may  
176 authorize a sterile needle and syringe exchange  
177 program; defining the term "exchange program";  
178 prohibiting the establishment of an exchange program  
179 under certain conditions; providing requirements for  
180 establishing an exchange program; specifying entities  
181 that may operate an exchange program; requiring the  
182 development of an oversight and accountability system  
183 for certain purposes; specifying requirements for  
184 exchange programs; requiring the collection of data



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185 and submission of reports; authorizing the Department  
186 of Health to adopt certain rules; providing for  
187 immunity from civil liability under certain  
188 circumstances; authorizing sources of funding for  
189 exchange programs; authorizing the continuation of a  
190 specified pilot project under certain circumstances;  
191 providing severability; providing an effective date.