

By the Committee on Health Policy; and Senators Braynon, Pizzo,
and Book

588-02477-19

2019366c1

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.; providing that a county commission may
5 authorize a sterile needle and syringe exchange
6 program; defining the term "exchange program";
7 prohibiting the establishment of an exchange program
8 under certain conditions; providing requirements for
9 establishing an exchange program; specifying entities
10 that may operate an exchange program; requiring the
11 development of an oversight and accountability system
12 for certain purposes; specifying requirements for
13 exchange programs; requiring the collection of data
14 and submission of reports; authorizing the Department
15 of Health to adopt certain rules; providing for
16 immunity from civil liability under certain
17 circumstances; authorizing sources of funding for
18 exchange programs; authorizing the continuation of a
19 specified pilot project under certain circumstances;
20 providing severability; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. This act may be cited as the "Infectious Disease
25 Elimination Act (IDEA)."

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

28 381.0038 Education; sterile needle and syringe exchange
29 programs ~~pilot program~~.—The Department of Health shall establish

588-02477-19

2019366c1

30 a program to educate the public about the threat of acquired
31 immune deficiency syndrome.

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

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

51 1. Authorize the program under the provisions of a county
52 ordinance;

53 2. Enter into a letter of agreement with the department in
54 which the county commission agrees that any exchange program
55 authorized by the county commission will operate in accordance
56 with this subsection;

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

588-02477-19

2019366c1

59 operation of the program;

60 4. Contract with one of the following entities to operate
61 the program:

62 a. A hospital licensed under chapter 395.

63 b. A health care clinic licensed under part X of chapter
64 400.

65 c. An accredited medical school associated with a
66 university in this state.

67 d. A licensed addictions receiving facility as defined in
68 s. 397.311.

69 e. A 501(c)(3) HIV/AIDS service organization.

70 (b)-(a) An exchange ~~The pilot~~ program must:

71 1. Develop an oversight and accountability system to ensure
72 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 where
84 needles and syringes are exchanged and of any equipment used
85 under the program, including, at a minimum, an accounting of the
86 number of needles and syringes in use, the number of needles and
87 syringes in storage, safe disposal of returned needles, and any

588-02477-19

2019366c1

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

90 32. 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. The county commission is authorized
93 to grant a waiver of this requirement under its contract with
94 the program operator if the terms of such a waiver require the
95 operator to maintain the one-to-one ratio except for exigent
96 circumstances delineated in the waiver.

97 43. Make available educational materials and referrals to
98 education regarding the transmission of HIV, viral hepatitis,
99 and other blood-borne diseases. The program operator must offer
100 such materials to program participants whenever needles or
101 syringes are exchanged; provide referrals for drug abuse
102 prevention and treatment; and provide or refer for HIV and viral
103 hepatitis screening.

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

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

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

588-02477-19

2019366c1

117 must include the number of participants served; the number of
118 used needles and syringes received and the number of clean,
119 unused needles and syringes distributed through exchange with
120 participants; the demographic profiles of the participants
121 served; the number of participants entering drug counseling or
122 treatment; the number of participants receiving testing for HIV,
123 AIDS, viral hepatitis, or other blood-borne diseases; and other
124 data that may be required under department rule. However, a
125 participant's personal identifying information may not be
126 collected for any purpose. Each exchange program must submit a
127 report to its county commission and to the department by August
128 1 annually. The department must submit a compilation report
129 encompassing data from all exchange programs annually by October
130 1 to the Governor, the President of the Senate, and the Speaker
131 of the House of Representatives. The department may adopt rules
132 to implement this subparagraph.

133 (c) ~~(b)~~ The possession, distribution, or exchange of needles
134 or syringes as part of an exchange ~~the pilot~~ program established
135 under this subsection is not a violation of any part of chapter
136 893 or any other law.

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

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

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

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

588-02477-19

2019366c1

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

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

166 (f) ~~(e)~~ State, county, or municipal funds may not be used to
167 operate an exchange the pilot program. Exchange programs may ~~The~~
168 pilot program shall be funded fully or partially through county
169 commission expenditures or through grants and donations from
170 private resources and funds.

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

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

588-02477-19

2019366c1

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

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

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