

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

576-03542-19

2019366c2

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

576-03542-19

2019366c2

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

576-03542-19

2019366c2

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. A medical school in this state accredited by the Liaison
66 Committee on Medical Education or the Commission on Osteopathic
67 College Accreditation.

68 d. A licensed addictions receiving facility as defined in
69 s. 397.311(26)(a)1..

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

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

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

84 2.1. Provide for maximum security of ~~exchange~~ sites where
85 needles and syringes are exchanged and of any equipment used
86 under the program, including, at a minimum, an accounting of the
87 number of needles and syringes in use, the number of needles and

576-03542-19

2019366c2

88 syringes in storage, safe disposal of returned needles, and any
89 other measure that may be required to control the use and
90 dispersal of sterile needles and syringes.

91 ~~3.2.~~ Operate a one-to-one exchange, whereby a the
92 participant shall receive one sterile needle and syringe unit in
93 exchange for each used one. The county commission is authorized
94 to grant a waiver of this requirement under its contract with
95 the program operator if the terms of such a waiver require the
96 operator to maintain the one-to-one ratio except for exigent
97 circumstances delineated in the waiver.

98 ~~4.3.~~ Make available educational materials ~~and referrals to~~
99 ~~education~~ regarding the transmission of HIV, viral hepatitis,
100 and other blood-borne diseases. The program operator must offer
101 such materials to program participants whenever needles or
102 syringes are exchanged; ~~provide referrals for drug abuse~~
103 ~~prevention and treatment;~~ ~~and provide or refer for HIV and viral~~
104 ~~hepatitis screening.~~

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

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

576-03542-19

2019366c2

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

134 ~~(c)(b)~~ The possession, distribution, or exchange of needles
135 or syringes as part of an exchange ~~the pilot~~ program established
136 under this subsection is not a violation of any part of chapter
137 893 or any other law.

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

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

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

144 ~~(d) The pilot program must collect data for quarterly,
145 annual, and final reporting purposes. The annual report must~~

576-03542-19

2019366c2

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

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

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

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

173 Section 3. Notwithstanding s. 381.0038(4), Florida
174 Statutes, as amended by this act, the pilot program established

576-03542-19

2019366c2

175 in Miami-Dade County under chapter 2016-68, Laws of Florida, may
176 continue to operate under that chapter until the Miami-Dade
177 County Board of County Commissioners establishes an exchange
178 program as defined under this act or until July 1, 2021,
179 whichever occurs first.

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

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