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1
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 the continuation of a
18 specified pilot project under certain circumstances;
19 providing severability; providing an effective date.
20

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

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

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

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

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30 immune deficiency syndrome.

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

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

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

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

56 3. Enlist the local county health department to provide
57 ongoing advice, consultation, and recommendations for the
58 operation of the program;

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

61 a. A hospital licensed under chapter 395.

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

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

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

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

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88 other measure that may be required to control the use and
89 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. The county commission
105 in a rural county may, under its contract with the program
106 operator, adjust the 72-hour requirement if the commission finds
107 that the availability of providers warrants an extended
108 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

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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 shall submit a
123 report to its county commission and to the department by August
124 1 annually. The department shall 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 needles
130 or syringes as part of an exchange ~~the pilot~~ program established
131 under this subsection is not a violation of any part of chapter
132 893 or any other law.

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

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

139 ~~(d) The pilot program must collect data for quarterly,~~
140 ~~annual, and final reporting purposes. The annual report must~~
141 ~~include information on the number of participants served, the~~
142 ~~number of needles and syringes exchanged and distributed, the~~
143 ~~demographic profiles of the participants served, the number of~~
144 ~~participants entering drug counseling and treatment; the number~~
145 ~~of participants receiving testing for HIV, AIDS, viral~~

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146 ~~hepatitis, or other blood-borne diseases; and other data~~
147 ~~necessary for the pilot program. However, personal identifying~~
148 ~~information may not be collected from a participant for any~~
149 ~~purpose. Quarterly reports must be submitted to the Department~~
150 ~~of Health in Miami-Dade County by October 15, January 15, April~~
151 ~~15, and July 15 of each year. An annual report must be submitted~~
152 ~~to the Department of Health by August 1 every year until the~~
153 ~~program expires. A final report is due on August 1, 2021, to the~~
154 ~~Department of Health and must describe the performance and~~
155 ~~outcomes of the pilot program and include a summary of the~~
156 ~~information in the annual reports for all pilot program years.~~

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

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

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

167 Section 3. Notwithstanding s. 381.0038(4), Florida
168 Statutes, as amended by this act, the pilot program established
169 in Miami-Dade County under chapter 2016-68, Laws of Florida, may
170 continue to operate under that chapter until the Miami-Dade
171 County Board of County Commissioners establishes an exchange
172 program as defined under this act or until July 1, 2021,
173 whichever occurs first.

174 Section 4. If any provision of this act or its application

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

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