

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 808
 INTRODUCER: Senator Margolis
 SUBJECT: Needle and Syringe Exchange Program
 DATE: April 8, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McElheney	Stovall	HP	Pre-meeting
2.	_____	_____	CJ	_____
3.	_____	_____	AHS	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 808 allows the Department of Health (DOH) to establish a needle and syringe exchange and education program to prevent the transmission of the human immunodeficiency virus (HIV) and other blood-borne diseases. The bill provides criteria for the program and provides conditions in which a staff member or participant may be prosecuted.

This bill substantially amends section 381.0038 of the Florida Statutes.

II. Present Situation:

Florida Comprehensive Drug Abuse Prevention and Control Act

Section 893.147, F.S., regulates the use or possession of drug paraphernalia. Currently, it is unlawful for any person to use, or to possess with intent to use, drug paraphernalia:

- To plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of this chapter; or
- To inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter¹

Any person who violates this provision is guilty of a misdemeanor of the first degree.²

¹ Section 893.147, F.S.

This section also provides that it is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used:

- To plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of this act or
- To inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this act.

Any person who violates this provision is guilty of a felony of the third degree.³

Intravenous Drug Use (IDU) in Florida

Geographically, the majority of Florida counties with high rates of persons living with HIV/AIDS (PLWHA) with an IDU-associated risk through 2011 are primarily in the southeast or central part of the state.⁴ Researchers from the University of Miami recently estimated that there are more than 10,000 IDUs in Miami and that one in five of these IDUs are HIV positive and one in three are Hepatitis C Virus positive.⁵ The chart below contains data from 2011 of eleven counties with the highest incidence of people living in Florida with HIV/AIDS with an IDU associated risk.⁶

² A misdemeanor of the first degree is punishable by a term of imprisonment not exceeding one year, or a fine of up to \$1,000, or both. See Section 775.082, F.S., and Section 775.083, F.S.

³ Section 893.147, F.S., punishable by certain of imprisonment not to exceed 5 years or a fine not to exceed \$5,000, or both.

⁴ HIV/AIDS and Hepatitis Program, Florida Department of Health, revised 10/17/12, *HIV Infection among Those with an Injection Drug Use-Associated Risk, Florida, 2011*. Retrieved 4/07/13 from [http://www.doh.state.fl.us/disease_ctrl/aids/updates/facts/11Facts/IDU_2011.ppt#370,17,Persons Living with HIV/AIDS \(PLWHA\)* with an Injection Drug Use-Associated Risk, for Selected Counties, Reported through 2011, Florida](http://www.doh.state.fl.us/disease_ctrl/aids/updates/facts/11Facts/IDU_2011.ppt#370,17,Persons Living with HIV/AIDS (PLWHA)* with an Injection Drug Use-Associated Risk, for Selected Counties, Reported through 2011, Florida).

⁵ Tookes, HE, Kral, AH, Wenger, LD, Cardenas, GA, Martinez, AN, Sherman, RL, Pereyra, M, Forrest, DW, LalLota, M, Metsch, LR. "A comparison of syringe disposal practices among injection drug users in a city with versus a city without needle and syringe programs." *Drug and Alcohol Dependence*, June 2012, Vol. 123, Issue 1, pp 255-259. Retrieved 4/07/13 from [http://www.drugandalcoholdependence.com/article/S0376-8716\(11\)00522-9/fulltext](http://www.drugandalcoholdependence.com/article/S0376-8716(11)00522-9/fulltext).

⁶ *Supra fn. 4*

County	Total PLWHA Cases	Total IDU	Percent IDU
Miami-Dade	25,381	2,608	10%
Broward	16,466	1,643	10%
Palm Beach	7,789	733	9%
Orange	7,012	1,027	15%
Hillsborough	5,889	828	14%
Duval	5,263	753	14%
Pinellas	3,529	584	17%
Lee	1,648	238	14%
St. Lucie	1,520	177	12%
Volusia	1,348	264	20%
Brevard	1,231	220	18%
STATE TOTAL*	97,174	13,037	13%

HIV/AIDS

HIV is a sexually transmitted infection. It can also be spread by contact with infected blood, or from mother to child during pregnancy, childbirth or breast-feeding. It can take years before HIV weakens your immune system to the point that you have AIDS. AIDS is a chronic, potentially life-threatening condition caused by the HIV. By damaging your immune system, HIV interferes with your body’s ability to fight the organisms that cause disease. There’s no cure for HIV/AIDS, but there are medications that can dramatically slow the progression of the disease.⁷

HIV can be transmitted through needles and syringes contaminated with infected blood. Sharing intravenous drug paraphernalia puts you at high risk of HIV and other infectious diseases such as hepatitis. People who use intravenous drugs often share needles and syringes. This exposes them to droplets of other people’s blood.⁸

Disposal of Sharps

According to the Food and Drug Administration (FDA) there are many people who use needles, syringes and lancets—called “sharps”—to manage their medical conditions at home. These conditions include diabetes, allergies, infertility, arthritis, hepatitis, HIV, blood clotting disorders, migraines and cancer. Sharps are also used to give medication to pets and farm animals. The haphazard disposal of these devices is putting a lot of other people, including waste-disposal workers, housekeepers, family members and children, at risk of injury and serious infections.

The Environmental Protection Agency estimates that 9 million people in the U.S. use sharps at home and that equates to more than 3 billion disposable needles and syringes and 900 million lancets each year. Many sharps used outside of healthcare facilities are disposed of in household

⁷ HIV/AIDS by the Mayo Clinic Staff, available at: <http://www.mayoclinic.com/health/hiv-aids/DS00005> (last visited April 7, 2013)

⁸ *Id.*

trashcans. This is a hazard because a person who is accidentally pricked by a discarded sharp is at risk of exposure to the blood borne viruses as hepatitis and HIV.⁹

Needle-collection programs exist in many Florida counties, but differ county to county. These programs help with the disposing of needles, syringes with needles, and lancets that have been used to treat, in a home, an allergy, acute illness, or chronic disease such as diabetes.¹⁰

National Data & Survey Results

According to the Centers for Disease Control and Prevention (CDC), Needle Syringe Exchange Programs (NSEP) can help prevent blood borne pathogen transmission by increasing access to sterile syringes among IDUs and enabling safe disposal of used syringes. Often, programs also provide other public health services, such as HIV testing, risk-reduction education, and referrals for substance-abuse treatment.¹¹

In 2002, staff from the Beth Israel Medical Center in New York City and the North American Syringe Exchange Network mailed surveys asking the directors of 148 NSEPs about syringes exchanged and returned, services provided, budgets, and funding. The survey found for the first time in 8 years, the number of NSEPs, the number of localities with NSEPs, and that public funding for NSEPs decreased nationwide however, the number of syringes exchanged and total budgets across all programs continued to increase.¹²

The survey identified the largest NSEPs are: Chicago Recovery Alliance (2.7 million syringes), Chicago, Illinois; San Francisco AIDS Foundation HIV Prevention Project (2.5 million), San Francisco, California; Seattle-King County Department of Public Health Needle Exchange Program, Seattle, Washington (1.0 million); Harm Reduction Institute, Indianapolis, Indiana (1.0 million); Point Defiance AIDS Project, Tacoma, Washington (0.9 million); San Diego Clean Needle Exchange Program, San Diego, California (0.9 million); Street Outreach Services, Seattle, Washington (0.8 million); Prevention Point Philadelphia, Pennsylvania (0.7 million); HIV Education and Prevention Project of Alameda, Oakland, California (0.6 million); Needle Exchange Emergency Distribution, Berkeley, California (0.5 million); and one NSEP that wanted program information kept confidential.¹³

III. Effect of Proposed Changes:

Section 1 adds a new subsection to s. 381.0038, F.S., authorizing the DOH to establish a needle and syringe exchange program. The program is provided to prevent the transmission of the HIV, AIDS, and other blood-borne diseases by offering free exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes in a one-for-one exchange. The

⁹Food and Drug Administration, Improperly Discarded “Sharps” Can Be Dangerous, *available at*: <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm278763.htm> (last visited April 5, 2013)

¹⁰ Florida Department of Health, Local Florida County Sharps and Needle-Collection Program, *available at*: <http://www.doh.state.fl.us/environment/community/biomedical/sharps.htm> (last visited on April 5, 2013)

¹¹ The Centers for Disease Control, MMWR Weekly, Update: Syringe Exchange Programs in US, 2002, *available at*: <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5427a1.htm> (last visited April 5, 2013)

¹² *Id.*

¹³ *Id.*

program must provide for security of exchange sites and equipment and make educational materials, counseling and testing, and referral sources targeted to education regarding HIV/AIDS transmission and drug use prevention and treatment available.

The bill provides an exemption from criminal prosecution for the possession, distribution, or exchange of needles or syringes under this program. However, a NSEP staff member or participant is not immune from criminal prosecution for possessing needles or syringes that are not part of this exchange program or for redistributing needles or syringes in any form.

Section 2 adds that if any provision of this act or its application to a person is invalid, the invalidity would not affect other provisions or applications of the act which can be given effect without the invalid provision, and the provisions of this act are severable.

Section 3 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The cost associated with implementing this program in all 67 counties is undeterminable. The cost would vary based on how it is implemented, but it could be quite low if the local county health department implements the program with existing staff and usage is low. One full-time professional position would be needed to implement, oversee, and evaluate the program. Educational materials (e.g., brochures and pamphlets on disease prevention, health education, HIV/hepatitis testing, substance abuse treatment, and referral resources) would be purchased to support the program. Needles/syringes would be purchased, along

with biohazardous waste disposal. The projected cost of \$1.50 per needle/syringe includes the cost of disposal.¹⁴

There are an estimated 90,000 active injection drug users in Florida, with the vast majority living in urban areas. In terms of preventing transmission of HIV and hepatitis, it is more cost effective to implement needle exchange in high prevalence areas. Programs might be successful in medium, or even low, prevalence areas without large numbers of injectors, but there is not much literature to estimate costs of implementation. The DOH has estimated total expenditures for the first year to be \$327,393 and the estimated expenditures for the second year to be \$337,451.¹⁵

The Florida Department of Children and Families may see an increase in referrals to drug treatment programs from the syringe exchange program.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁴ DOH Bill Analysis for SB 808, dated February 20, 2013, on file with the Senate Health Policy Committee.

¹⁵ *Id.*

¹⁶ *Id.*