

SUBJECT: Authorizing a disease control pilot program in certain counties

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 9 ayes — Coleman, Farias, Burrows, Romero, Schubert, Spitzer, Stickland, Tinderholt, Wu

0 nays

WITNESSES: For — Neel Lane; Mark Kinzly, National Harm Reduction Coalition; William Martin, Rice University James A. Baker III Institute for Public Policy; Jill Rips, San Antonio AIDS Foundation; Donald Lee, Texas Conference of Urban Counties; Joe McAdams, Texas HIV Connection; Melissa Lujan, The Center for Health Care Services and Centro de Vida Empowerment Project; Jason Bowling, University Health System; (*Registered, but did not testify:* Matt Simpson, American Civil Liberties Union of Texas; Seth Mitchell, Bexar County Commissioners Court; Katharine Ligon, Center for Public Policy Priorities; Robin Peyson, Communities for Recovery; Jim Allison, County Judges and Commissioners Association of Texas; Lucinda Saxon, Legacy Community Health Services; Cate Graziani, Mental Health America of Texas; Maureen Milligan, Teaching Hospitals of Texas; Scott Henson, Texas Criminal Justice Coalition; Jennifer Banda, Texas Hospital Association; Dan Finch, Texas Medical Association; Conrad John, Travis County Commissioners Court)

Against — None

On — Jenny McFarlane, Texas Department of State Health Services

BACKGROUND: Government Code, sec. 531.0972 authorizes the Health and Human Services Commission to consult with the local health authority of Bexar County to establish a pilot program to prevent the spread of certain communicable diseases, including a disease control program providing for the anonymous exchange of used hypodermic needles and syringes.

Health and Safety Code, ch. 481 is the Texas Controlled Substances Act. Sec. 481.125 prohibits the possession of drug paraphernalia, including a hypodermic syringe or needle, for the use of illegal substances, as well as the delivery of drug paraphernalia with the knowledge that the person receiving it will use it for illegal purposes.

DIGEST:

CSHB 65 would allow certain counties and hospital districts to authorize a disease control pilot program that included a hypodermic needle exchange program, among other components. The bill would apply to Bexar, Dallas, El Paso, Harris, Nueces, Travis, and Webb counties and hospital districts in those counties. The Health and Human Services Commission could provide guidance to these entities in establishing a disease control pilot program.

Disease control pilot program. Under the bill, a county or hospital district could authorize an organization to establish a pilot program designed to prevent the spread of HIV, hepatitis B, hepatitis C, and other communicable diseases. The program could include disease control outreach programs that:

- provided for the anonymous exchange of used hypodermic needles and syringes for an equal number of new hypodermic needles and syringes;
- offered education on the transmission and prevention of communicable diseases; and
- helped participants receive health care and related services, including mental health and substance abuse treatment services and bloodborne disease testing.

A licensed wholesale drug or device distributor could distribute hypodermic needles and syringes to a disease control pilot program. The county or hospital district could require the organization operating the program to register with the county or district and pay a reasonable fee to distribute hypodermic needles and syringes under the pilot program. The organization, in turn, could charge a fee to a program participant for each needle or syringe used in the program. Counties or hospital districts would

use fee money to help pay for oversight functions, including coordination with law enforcement.

The bill would require safe and proper storage and disposal of needles and syringes, and access to them would be restricted to authorized employees or volunteers of the disease control program. Program participants would have access to hypodermic needles and syringes through packaged safe kits distributed through the program.

Exception to prosecution. Beginning September 1, 2015, the bill would provide exceptions to prosecution for offenses related to drug paraphernalia under the Texas Controlled Substances Act for a person involved with the disease control pilot program who:

- dispensed or delivered a hypodermic needle and syringe for a medical purpose, including a needle exchange program;
- manufactured hypodermic needles and syringes for delivery to the program; or
- was an employee, volunteer, authorized agent, or participant and used, possessed, or delivered a hypodermic needle and syringe as a part of the program.

Other provisions. An organization operating the disease control pilot program would be required annually to provide to the Department of State Health Services and the authorizing county or hospital district information on the effectiveness and impact of the program in reducing the spread of communicable diseases.

The organization could solicit and accept gifts, grants, or donations to fund the program. Statutory authorization for the pilot programs would expire September 1, 2025.

This bill would take effect September 1, 2015.

SUPPORTERS
SAY:

CSHB 65 is a local authority bill that would give certain counties and hospital districts an effective way to provide counseling and health

services to populations that often do not seek these services for fear of prosecution. Studies have shown that drug use actually decreases with the introduction of needle-exchange programs into communities. These programs offer more than clean needles — participants gain access to other mental and physical health care services, including substance abuse treatment. While there is no guarantee a participant would enter a substance abuse program, needle exchange programs in other cities, such as Baltimore, have seen almost 20 percent of participants enter treatment after the program was established.

Counties and hospital districts would not be required to establish a program, and no state funds would be used to operate one. The bill would allow a disease control program to accept gifts, donations, and grants, and the county or hospital district could charge a fee to program participants to help offset program costs.

Rates of HIV and hepatitis C increase significantly when intravenous drug users share needles. Needle-exchange programs limit the instances in which people are exposed to used syringes, reducing the transmission of HIV and other bloodborne diseases. Texas has one of the highest HIV/AIDS rates in the country, and the lifetime cost of treating an HIV-positive person can range from \$385,000 to \$600,000. As a result of the state's high rate of uninsured residents, this cost frequently falls on county hospitals and taxpayers. Prevention of HIV through a needle-exchange program would be significantly less expensive and would save the county and taxpayers thousands of dollars.

This bill also would benefit individuals who come into contact with intravenous drug users. Law enforcement and health care workers are also at risk of being infected by contaminated needles hidden by drug users. This bill would decrease this risk by supplying safely packaged and clean needles.

**OPPONENTS
SAY:**

This bill could send a message that the Legislature condones risky and illegal activity by providing a tool for illegal drug use and allowing counties to use local tax dollars to enable drug abusers. The state should

not support or encourage this activity, let alone contribute to the supply of equipment required for substance abuse. Instead, the state should focus its efforts on supporting programs that help people recover and abstain from drugs altogether.

While these needle-exchange programs may also offer services designed to help addicts recover, there is no guarantee that drug users would actually take advantage of them. An individual might participate only to receive a syringe package and not to benefit from any of the other services provided by the program. This bill could be a vehicle for individuals with substance abuse issues to receive a steady supply of drug paraphernalia, further enabling their addiction.