

AMENDED IN ASSEMBLY MARCH 17, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 604

Introduced by Assembly Member Skinner

February 16, 2011

~~An act relating to public health.~~ *An act to amend Sections 121349, 121349.1, 121349.2, and 121349.3 of the Health and Safety Code, relating to public health.*

LEGISLATIVE COUNSEL'S DIGEST

AB 604, as amended, Skinner. ~~Medical home multipayer program.~~
Needle exchange programs.

Existing law, with certain exceptions, makes it a misdemeanor for a person to deliver, furnish, transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Existing law provides an exception to this general rule by authorizing a city, county, or city and county to conduct a clean needle and syringe exchange project authorized by the public entity to combat the spread of HIV and bloodborne hepatitis. Existing law exempts providers participating in an exchange project from criminal prosecution for possession of needles or syringes during participation in the project. Existing law also provides a specified annual comment and reporting process relating to the needle and syringe exchange projects.

This bill would authorize the State Department of Public Health to authorize, as specified, certain entities to provide hypodermic needle and syringe exchange services in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used hypodermic needles and syringes.

This bill would exempt staff and volunteers participating in an authorized exchange project from criminal prosecution for violation of any law related to the possession, furnishing, or transfer of hypodermic needles or syringes during participation in an exchange project and would exempt program participants from criminal prosecution for possession of needles and syringes acquired from an authorized exchange project entity. The bill would also make the comment and reporting process for the projects biennial.

~~Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities.~~

~~This bill would declare the intent of the Legislature to subsequently amend this bill to include provisions that would establish a medical home multipayer program to improve patient access to health care services, and to improve the continuity and coordination of health care services.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 121349 of the Health and Safety Code is
- 2 amended to read:
- 3 121349. (a) The Legislature finds and declares that scientific
- 4 data from needle exchange programs in the United States and in
- 5 Europe have shown that the exchange of used hypodermic needles
- 6 and syringes for clean hypodermic needles and syringes does not
- 7 increase drug use in the population, can serve as an important
- 8 bridge to treatment and recovery from drug abuse, and can curtail
- 9 the spread of human immunodeficiency virus (HIV) infection
- 10 among the intravenous drug user population.
- 11 (b) In order to ~~attempt to~~ reduce the spread of HIV infection
- 12 and ~~blood-borne~~ *bloodborne* hepatitis among the intravenous drug

1 user population within California, the Legislature hereby authorizes
2 a clean needle and syringe exchange project pursuant to this chapter
3 in any city ~~and county~~, county, or city *and county* upon the action
4 of a county board of supervisors and the local health officer or
5 health commission of that county, or upon the action of the city
6 council, the mayor, and the local health officer of a city with a
7 health department, or upon the action of the city council and the
8 mayor of a city without a health department.

9 *(c) In order to reduce the spread of HIV infection, viral hepatitis,*
10 *and other potentially deadly bloodborne infections, the State*
11 *Department of Public Health may, notwithstanding any other law,*
12 *authorize entities that provide services set forth in paragraph (1)*
13 *of subdivision (d), and that have sufficient staff and capacity to*
14 *provide the services described in Section 121349.1, as determined*
15 *by the department, to apply for authorization under this chapter*
16 *to provide hypodermic needle and syringe exchange services*
17 *consistent with state and federal standards, including those of the*
18 *United States Public Health Service, in any location where the*
19 *department determines that the conditions exist for the rapid spread*
20 *of HIV, viral hepatitis, or any other potentially deadly or disabling*
21 *infections that are spread through the sharing of used hypodermic*
22 *needles and syringes.*

23 *(d) In order for an entity to be authorized to conduct a project*
24 *pursuant to this chapter, its application to the department shall*
25 *demonstrate that the entity complies with all of the following*
26 *minimum standards:*

27 *(1) The entity provides, directly or through referral, any of the*
28 *following services:*

29 *(A) Drug abuse treatment services.*

30 *(B) HIV or hepatitis C screening.*

31 *(C) Hepatitis A and hepatitis B vaccination.*

32 *(D) Screening for sexually transmitted infections.*

33 *(E) Housing services for the homeless, for victims of domestic*
34 *violence, or other similar housing services.*

35 *(F) Services related to provision of education and materials for*
36 *the reduction of sexual risk behaviors, including, but not limited*
37 *to, the distribution of condoms.*

38 *(2) The entity has the capacity to commence needle and syringe*
39 *exchange services within three months of authorization.*

1 (3) *The entity has adequate funding to do all of the following*
2 *at reasonably projected program participation levels:*

3 (A) *Provide needles and syringe exchange services for all of its*
4 *participants.*

5 (B) *Provide HIV and viral hepatitis prevention education*
6 *services for all of its participants.*

7 (C) *Provide for the safe recovery and disposal of used syringes*
8 *and sharps waste from all of its participants.*

9 (4) *The entity has the capacity, and an established plan, to*
10 *collect evaluative data in order to assess program impact,*
11 *including, but not limited to, all of the following:*

12 (A) *The total number of persons served.*

13 (B) *The total number of syringes and needles distributed,*
14 *recovered, and disposed of.*

15 (C) *The total numbers and types of referrals to drug treatment*
16 *and other services.*

17 (5) *If the application is provisionally deemed appropriate by*
18 *the department, the department shall, at least 45 days prior to*
19 *approval of the application, provide for a period of public comment*
20 *as follows:*

21 (A) *Post on the department’s Internet Web site the name of the*
22 *applicant, the nature of the services, and the location where the*
23 *applying entity will provide the services.*

24 (B) *Send a written and an electronic mail notice to the local*
25 *health officer of the affected jurisdiction.*

26 (e) *The department shall establish and maintain on its Internet*
27 *Web site the address and contact information of programs*
28 *providing hypodermic needle and syringe exchange services.*

29 (e)

30 (f) *The authorization provided under this section shall only be*
31 *for a clean needle and syringe exchange project as described in*
32 *Section 121349.1*

33 *SEC. 2. Section 121349.1 of the Health and Safety Code is*
34 *amended to read:*

35 121349.1. ~~A city and county, or a~~ *The State Department of*
36 *Public Health or a city, county, or a city and county with or without*
37 *a health department, that acts to authorize a clean needle and*
38 *syringe exchange project pursuant to this chapter shall, in*
39 *consultation with the State Department of Public Health Services,*
40 *authorize the exchange of clean hypodermic needles and syringes,*

1 as recommended by the United States ~~Secretary of Health and~~
2 ~~Human Services~~ *Public Health Service*, subject to the availability
3 of funding, as part of a network of comprehensive services,
4 including treatment services, to combat the spread of HIV and
5 ~~blood-borne~~ *bloodborne* hepatitis infection among injection drug
6 users. ~~Providers~~ *Staff and volunteers* participating in an exchange
7 project authorized by the *state*, county, city, or city and county
8 pursuant to this chapter shall not be subject to criminal prosecution
9 for ~~possession or violation of any law related to the possession,~~
10 ~~furnishing, or transfer of hypodermic~~ needles or syringes during
11 participation in an exchange project. *Program participants shall*
12 *not be subject to criminal prosecution for possession of needles*
13 *or syringes acquired from an authorized needle and syringe*
14 *exchange project entity.*

15 *SEC. 3. Section 121349.2 of the Health and Safety Code is*
16 *amended to read:*

17 121349.2. Local government, local ~~public~~ health officials, and
18 law enforcement shall be given the opportunity to comment on
19 clean needle and syringe exchange programs on ~~an annual~~ *a*
20 *biennial* basis. The public shall be given the opportunity to provide
21 input to local leaders to ensure that any potential adverse impacts
22 on the public welfare of clean needle and syringe exchange
23 programs are addressed and mitigated.

24 *SEC. 4. Section 121349.3 of the Health and Safety Code is*
25 *amended to read:*

26 121349.3. The health officer of the participating jurisdiction
27 shall present ~~annually~~ *biennially* at an open meeting of the board
28 of supervisors or city council a report detailing the status of clean
29 needle and syringe exchange programs, including, but not limited
30 to, relevant statistics on ~~blood-borne~~ *bloodborne* infections
31 associated with needle sharing activity and the use of public funds
32 for these programs. Law enforcement, administrators of alcohol
33 and drug treatment programs, other stakeholders, and the public
34 shall be afforded ample opportunity to comment at this ~~annual~~
35 *biennial* meeting. The notice to the public shall be sufficient to
36 assure adequate participation in the meeting by the public. This
37 meeting shall be noticed in accordance with all state and local open
38 meeting laws and ordinances, and as local officials deem
39 appropriate. *For hypodermic needle and syringe exchange services*
40 *authorized by the State Department of Public Health, a biennial*

1 *report shall be provided by the department to the local health*
2 *officer based on the reports to the department from service*
3 *providers within the jurisdiction of that local health officer.*

4 ~~SECTION 1. It is the intent of the Legislature to subsequently~~
5 ~~amend this measure to include provisions that would establish a~~
6 ~~medical home multipayer program to improve patient access to~~
7 ~~health care services, and improve the continuity and coordination~~
8 ~~of health care services.~~