

SUBJECT: Syringe exchange and disease control pilot programs for certain counties

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 9 ayes — Coleman, Stucky, Anderson, Cason, Longoria, Lopez, Spiller,
Stephenson, J. Turner

0 nays

WITNESSES: For — Richard Bradshaw, Central Texas Harm Reduction; Cate Graziani, Texas Harm Reduction Alliance; Neel Lane; David Stout; Claire Zagorski; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Jim Allison, County Judges and Commissioners Association of Texas; Elisa Tamayo, Emergence Health Network; Thamara Narvaez, Harris County Commissioners Court; Dan Finch, Texas Medical Association; John Pitts, Vivent Health; Thomas Parkinson)

Against — None

On — Lucas Hill; Jennifer Potter

BACKGROUND: The 80th Legislature in 2007 authorized a disease control pilot program, which could include the anonymous exchange of used hypodermic needles and syringes, in Bexar County under SB 10 by Nelson (Government Code sec. 531.0972). The program was not implemented after an opinion issued in May 2008 by the Texas attorney general stating that Government Code sec. 531.0972 could subject participants of the pilot program to prosecution under state drug paraphernalia laws.

Health and Safety Code sec. 481.125 prohibits the possession of drug paraphernalia, including syringes, for illegal use of a controlled substance or the distribution of such paraphernalia with the knowledge that the person receiving it will use it for illegal purposes. Persons who violate sec. 481.125 may be charged with certain misdemeanors for possessing drug paraphernalia.

DIGEST: HB 3233 would authorize certain entities to establish disease control pilot programs that could provide for the anonymous exchange of syringes, offer education on disease prevention, and refer program participants to certain health care services. The bill also would create exceptions to prosecution for people working and participating in such programs.

Disease control pilot program. The bill would allow disease control pilot programs in Bexar, Dallas, El Paso, Harris, Nueces, Travis, and Webb counties and their hospital districts. A county or hospital district could establish a disease control pilot program to prevent the spread of infectious and communicable diseases, including HIV, hepatitis B, and hepatitis C. The pilot program could include disease control outreach programs that:

- provided for the anonymous exchange of used syringes for an equal number of new syringes;
- offered education on the transmission and prevention of communicable diseases; and
- assisted program participants in obtaining health care and other physical and mental health-related services, including substance-abuse treatment and blood-borne disease testing.

The statutory authorization for the disease control programs would expire September 1, 2031.

Under the bill, a county or hospital district could register an organization to operate the disease control pilot program and distribute needles and syringes to control the spread of certain infectious and blood-borne communicable diseases. The county or hospital district could charge the organization a registration fee to cover registration costs.

A registered organization could charge a program participant a certain fee for each needle or syringe used in the program. The fee could not exceed 150 percent of the actual cost of the needle or syringe.

The bill also would authorize a registered organization operating a disease

control pilot program to solicit or accept gifts, grants, or donations to fund the program.

The bill would require a registered organization to annually provide to the Department of State Health Services and the county or hospital district that registered the organization information on:

- the effectiveness of the disease control pilot program;
- the program's impact on reducing the spread of infectious and communicable diseases, including HIV, hepatitis B, and hepatitis C; and
- the program's effect on injected drug use by individuals residing with the county or hospital district.

Distribution and handling of needles and syringes. A licensed wholesale drug distributor or device distributor could distribute needles and syringes to an authorized disease control pilot program.

A registered organization would be required to store and dispose of used needles and syringes as authorized under the bill and in accordance with applicable state laws and administrative rules. Under the bill, a registered organization could provide needles and syringes in packaged safe kits for program participants and could only allow an authorized program employee or volunteer to provide needles, syringes, and safe kits.

Exceptions to prosecution. The bill would create exceptions to prosecutions for offenses related to possession or delivery of drug paraphernalia under Health and Safety Code sec. 481.125 for a person who:

- possessed or delivered a needle or syringe for a medical purpose, including the exchange of hypodermic needles under a disease control pilot program;
- possessed or manufactured syringes to be used by a disease control pilot program; or
- used, possessed, or delivered a syringe as a participant in, or a

volunteer or employee of, a disease control pilot program.

These provisions would expire September 1, 2031.

Other provisions. The bill would make relevant conforming changes under Government Code sec. 531.0972.

The bill would take effect September 1, 2021, and would only apply to an offense committed on or after the effective date.

**SUPPORTERS
SAY:**

HB 3233 would allow seven large counties and their hospital districts to create disease control programs that would help reduce the transmission of HIV, hepatitis C, and other diseases, while providing referrals to appropriate health and social services for individuals struggling with drug addiction.

Reducing the spread of blood-borne diseases with one-for-one needle exchanges would benefit public health and safety in many communities. Drug users can infect themselves with contaminated needles and spread diseases to family members, including their sexual partners and children. Law enforcement officers and health care workers also can be infected by contaminated needles hidden by drug users who fear prosecution. Needle exchanges limit the instances in which people are exposed to dirty needles, which is key to reducing the transmission of HIV and other communicable diseases.

Needle exchanges do not encourage the use of illegal drugs but instead extend the reach of treatment programs and may provide important counseling opportunities for drug users. The Centers for Disease Control and Prevention reports that new drug users who participate in syringe exchange programs are five times more likely to enter drug treatment and three times more likely to stop using drugs than those who do not participate in these programs. A pilot program's outreach is critical in addressing the difficult reality that a user grappling with addiction will not abstain from injecting illicit drugs simply because a sterile needle is not available. The programs authorized under the bill would offer compassion

to drug users without sanctioning their illegal activities or soft-selling to the public the harmful effects of addiction. Such programs also would not tacitly condone or promote drug use among children, as some critics may contend.

No county or hospital district authorized under the bill would be required to establish a disease control pilot. The bill simply would allow the seven counties and their hospital districts to establish harm-reduction programs to address the needs of community members. Because the programs would work with local governments, communities would be properly involved and informed about how and where the exchanges would operate.

Finally, HB 3233 would provide program workers, volunteers, and participants much-needed exceptions to prosecution under the state's drug paraphernalia laws, which would be key in helping the needle exchange, disease prevention, and outreach efforts to succeed. The pilot programs would be staffed by paid employees and volunteers from faith-based organizations and nonprofits who want to help improve their communities. People who choose to improve public safety while helping their neighbors who are battling drug addiction should not have to worry about being pursued by law enforcement. Providing these exceptions to prosecution would be vital to the success of the new pilot programs.

CRITICS
SAY:

Needle exchange programs are ineffective in stopping the spread of disease, do not address the root issue of drug addiction, send a dangerous signal to adolescents that using illegal drugs is acceptable, and siphon public money away from more effective public health and drug rehabilitation programs.

Although HB 3233 has an admirable goal, the state should not in any way support or encourage illegal behavior, let alone contribute to the supply of equipment required for substance abuse, including needles and syringes. Instead, the state should focus its efforts on supporting programs that help people abstain from drugs altogether.

Neighborhoods in which exchanges would operate under the bill could experience an increase in the number of dirty, discarded needles on their streets. This could pose a problem for residents, especially for children playing in public spaces. In addition, the ready supply of needles in locations near exchanges could attract local drug dealers to those areas and increase rates of crime. It would be unfair to impose this added risk upon some neighborhoods in which an exchange was located, only to host a program that is not proven to work.