
THIRD READING

Bill No: AB 1344
Author: Arambula (D)
Amended: 4/8/21 in Assembly
Vote: 21

SENATE HEALTH COMMITTEE: 8-1, 6/16/21
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez
NO VOTE RECORDED: Grove, Hurtado

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 7/1/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 49-20, 5/27/21 - See last page for vote

SUBJECT: State Department of Public Health: needle and syringe exchange services

SOURCE: Drug Policy Alliance
National Harm Reduction Coalition
San Francisco AIDS Foundation

DIGEST: This bill requires clean needle and syringe exchange services application submissions, authorizations, and operations performed in this state to be exempt from review under the California Environmental Quality Act (CEQA).

ANALYSIS:

Existing law:

- 1) Authorizes a clean needle and syringe exchange project (SEP) in any city, county, or city and county upon the action of a county board of supervisors and the local health officer (LHO) or health commission of that county, or upon the

action of the city council, the mayor, and the LHO of a city with a health department, or upon the action of the city council and the mayor of a city without a health department. [HSC §121349 (b)]

- 2) Permits the California Department of Public Health (CDPH) to authorize entities to provide SEP services for no more than two years, as specified, in any location where CDPH 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. Requires authorization to be made after consultation with the LHO and local law enforcement leadership, and after a period of public comment. Requires CDPH, in making the determination, to balance the concerns of law enforcement with the public health benefits. Permits CDPH, before the end of the two-year period, to reauthorize the program in consultation with the LHO and local law enforcement leadership. [HSC §121349 (c)]
- 3) Requires an entity's application, in order for it to be authorized to conduct an SEP project to demonstrate that the entity complies with all of the following minimum standards:
 - a) The entity provides, directly or through referral: drug abuse treatment services; HIV or hepatitis screening; hepatitis A and hepatitis B vaccination; screening for sexually transmitted infections; housing services for the homeless, for victims of domestic violence, or other similar housing services; and, services related to provision of education and materials for the reduction of sexual risk behaviors, including, but not limited to, the distribution of condoms;
 - b) The entity has the capacity to commence needle and syringe exchange services within three months of authorization;
 - c) The entity has adequate funding to do all of the following at reasonably projected program participation levels: provide needles and syringe exchange services for all of its participants; provide HIV and viral hepatitis prevention education services for all of its participants; and, provide for the safe recovery and disposal of used syringes and sharps waste from all of its participants;
 - d) The entity has the capacity, and an established plan, to collect evaluative data in order to assess program impact, including, but not limited to: the total number of persons served; the total number of syringes and needles distributed, recovered, and disposed of; and, the total numbers and types of referrals to drug treatment and other services. [HSC §121349 (d)]

- 4) Requires CDPH, if the application for an SEP is provisionally deemed appropriate, at least 45 days prior to approval of the application, provide for a period of public comment as follows:
 - a) Post on the CDPH website the name of the applicant, nature of the services, and the location where the applying entity will provide the services;
 - b) Send a written and an email notice to LHO of the affected jurisdiction; and,
 - c) Send a written and an email notice to the chief of police, the sheriff, or both, as appropriate, of the jurisdictions in which the SEP will operate. [HSC §121349 (e)]
- 5) Requires lead agencies, under CEQA, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on any project which they propose to carry out or approve that may have a significant effect on the environment. [PRC §21100]

This bill:

- 1) Requires SEP services application submissions, authorizations, and operations performed in this state to be exempt from review under the CEQA.
- 2) Specifies that this bill is intended to be declaratory of existing law.

Comments

- 1) *Author's statement.* According to the author, SEPs are a safe, effective, and cost-saving strategy instituted to slow the spread of deadly and disabling conditions. They have a proven track record of reducing the transmission of many deadly diseases, including HIV and hepatitis C. Due to the pandemic, SEPs have expanded their services in the form of providing COVID education, personal protection equipment distribution, sharing information on access to housing and health services, and other vitally needed services. There is an urgent need to expand SEPs in our state in order to address our looming opioid public health emergency. Unfortunately, in an effort to thwart sound public health policy, some attorneys have inappropriately weaponized CEQA against public health programs. This abuse of the intent of CEQA improperly places disease prevention and environmental protection at odds. Without immediate legislative action, the public health prevention services provided by SEPs directly authorized by CDPH will be curtailed, and new programs will be deterred, at the precise time when the need for them is increasing. This bill will help protect Californians from potentially deadly or disabling infections that are spread through the sharing of used needles and syringes by protecting these valuable community-based SEPs.

- 2) *Injection drug use and HIV/hepatitis.* According to the Centers for Disease Control and Prevention (CDC), people who inject drugs (PWID) are at high risk for getting HIV, hepatitis B virus (HBV), and hepatitis C virus (HCV) infection if they use needles, syringes, or other drug injection equipment (for example, cookers) that someone with HIV, HBV, or HCV has used. The CDC estimates that 62% to 80% of PWID who are HIV-infected are also infected with HCV and at least 60% of new cases of HCV nationally are associated with injection drug use. Although new HIV diagnoses among PWID have declined in recent years, the risk for getting or transmitting HIV is very high if an HIV-negative person uses injection equipment that someone with HIV has used because the virus can survive in a used syringe for up to 42 days, depending on temperature and other factors. In 2017, PWID accounted for 9% (3,641) of the 38,739 diagnoses of HIV in the U.S. and dependent areas (2,389 cases were attributed to injection drug use and 1,252 to male-to-male sexual contact *and* injection drug use). In a study of cities with high levels of HIV, 40% of new PWID (those who have been injecting for five years or less) reported sharing syringes. From 2005 to 2015, syringe sharing declined 34% among black/African American PWID and 12% among Hispanic/Latino PWID, but did not decline among white PWID. Young PWID (aged <30 years) are more likely to share syringes than older PWID.

Public health experts, including those at the CDC, have for decades identified access to sterile syringes as one component of a comprehensive HIV prevention strategy designed to reduce HIV and hepatitis transmission among PWIDs. In 1999, a number of national organizations endorsed deregulation to allow PWIDs to purchase and possess syringes and needles without a prescription, including the American Medical Association, the American Pharmaceutical Association, the National Association of Boards of Pharmacy, the National Alliance of State and Territorial AIDS Directors, and the Association of State and Territorial Health Officials.

- 3) *SEPs.* According to CDPH's Office of AIDS (OA), SEPs have been operating in California since the late 1980s, providing sterile syringes, collecting used ones, and acting as a point of access to health education and help for people who inject drugs. In addition to syringe exchange and disposal, California SEPs provide a wide range of services, including HIV and HCV testing, overdose prevention training, and referrals to drug treatment, housing, and mental health services. Most SEPs also provide first aid and basic supplies, such as clean socks and bottled water, to meet the needs of homeless clients. California SEPs operate in a variety of settings, including in health clinics, mobile vans, storefronts and churches. Some offer street-based services in multiple locations;

others offer services daily during standard business hours; still others provide home delivery services.

Research on the impact of SEPs found that for many clients, interaction with SEPs was the only contact they had with health care or social services of any kind. Data also show that HIV infection rates drop when there are SEPs available, and researchers studying a San Francisco SEP found that that program did not encourage drug use. According to the OA website, it is estimated that SEPs could prevent HIV infections among clients, their sex partners, and offspring at a cost of about \$13,000 per infection averted. This is significantly less than the lifetime cost of treating an HIV-infected person, which is estimated to be \$385,200. Currently, there are 60 authorized SEPs in the state, though two (in Merced and the Yuba-Sutter region) are not currently operating.

- 4) *SEP litter studies and complaints.* According to information provided by the author, separate lawsuits filed against SEPs in Orange, Butte, and Santa Cruz counties include CEQA claims. In the Orange County case, in 2019 the court interpreted SEPs as “projects” subject to the CEQA because the program could not demonstrate that it collected all the syringes that it distributed. Subsequently that program was forced to shut down. A litter study in Orange County noted that “in the location proposed by OCNEP [Orange County Needle Exchange Program] in Santa Ana, the visual inspection walkthrough showed a substantial amount of syringe litter months after OCNEP closure. Syringe litter is a problem in Santa Ana, and not having access to a syringe exchange or proper disposal for PWID, will likely increase the problem of syringe litter. Decreased access to syringes, as a result of OCNEP’s closure, has likely put PWID in Orange County at a greater risk of contracting HIV and HCV). Overall, participants in both groups were unaware of or did not have access to a safe disposal location other than OCNEP. Many of the participants in both groups understood the importance of safe syringe disposal and wanted to do something to decrease syringe litter.” A SEP in Butte County was forced to rescind its CDPH-approved application as a result of a complaint filed in 2020, and a similar lawsuit was filed in Santa Cruz in December 2020. A 2019 litter study conducted by Santa Cruz County Health Service Agency states that, “Overall, the amount of syringes that are disposed safely vastly outnumbers the amount of syringe litter in the community. The ratio of syringes improperly disposed of compared to those properly disposed of during the inspection period is 0.0103 or... in other words, for every 1,000 needles disposed of within Santa Cruz County, about ten needles are disposed of improperly as litter.” The report

recommendations include expanded hours of syringe service programs, and situate sharps disposal kiosks in additional locations.

Related/Prior Legislation

AB 406 (Skinner, Chapter 744, Statutes of 2011) permitted CDPH, until January 1, 2019, to authorize specified entities to provide hypodermic needle and syringe exchange services, as specified, in any location where DPH 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 needles and syringes. AB 1810 (Budget Committee, Chapter 34, Statutes of 2018) deleted the 2019 sunset date.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 8/17/21)

Drug Policy Alliance (co-source)

National Harm Reduction Coalition (co-source)

San Francisco AIDS Foundation (co-source)

Access Support Network

Affordable Homeless Housing Alternatives, Inc.

AIDS Healthcare Foundation

Alcohol Justice

American Addiction Institute of Mind and Medicine

American Civil Liberties Union California Action

American College of Emergency Physicians, California Chapter

Any Positive Change Inc.

APLA Health

Asian American Drug Abuse Program, Inc.

Being Alive - Los Angeles

Berkeley Needle Exchange Emergency Distribution

California Association of Social Rehabilitation Agencies

California Bridge

California Syringe Exchange Programs Coalition

Courage California

Desert Aids Project

End Hep C SF

Face to Face

Fresno Needle Exchange Program

GLIDE

Harm Reduction Coalition of Santa Cruz County

Harm Reduction Services
HIV Education and Prevention Project of Alameda County
Homeless Health Care Los Angeles
Homeless Persons Legal Assistance Project
Inland Empire Harm Reduction
League of Women Voters of California
Los Angeles LGBT Center
Mendocino County AIDS/Viral Hepatitis Network
Next Harm Reduction
Northern Valley Harm Reduction Coalition
Safer Alternatives Thru Networking and Education
SafeRx Santa Cruz County
Sierra Harm Reduction Coalition
SLO Bangers Syringe Exchange and Overdose Prevention
St. James Infirmary
Stonewall Alliance of Chico
The Los Angeles Trust for Children's Health
The Sidewalk Project
UCSF Alliance Health Project

OPPOSITION: (Verified 8/17/21)

City of Santa Cruz Mayor Donna Meyers
Coastal Watershed Council
County of Butte
County of Santa Cruz County Supervisors Ryan Coonerty and Bruce McPherson
Valley Women's Club of San Lorenzo Valley

ARGUMENTS IN SUPPORT: The Drug Policy Alliance, the National Harm Reduction Coalition, and the San Francisco AIDS Foundation, cosponsors of this bill and the numerous SEPs write that this bill ensures access to syringe services programs at the current and hopefully expanding level for people throughout California. This bill prevents anti-harm reduction litigants from placing public health and environmental protection goals of the legislature at odds with one another and subverting the intent of the legislature in enacting the law in 2011. It will also protect the public health of all Californians, and is particularly important at this time, in light of the twin pandemics of COVID-19 and opioid overdose. The supporters also state that SEPs provide lifesaving harm reduction services and supplies, overdose prevention supplies and are critical to addressing the overdose crisis in California. The National Harm Reduction Coalition writes that despite clear legislative intent that CDPH has the authority to authorize entities to operate

hypodermic needle and syringe services programs in California series of coordinated legal attacks have disrupted services and resulted in the closure of two syringe services programs in the last five years, with another one facing current litigation. These lawsuits have been filed by right-wing groups operating in various parts of the state, who share tactics and goals with anti-vaxxers, anti-maskers, COVID-19 deniers, and anti-abortion activists. They are in communication with one another, and their intent is to close programs through legal harassment, as well as intimidation tactics similar to those who blockade women's health providers.

ARGUMENTS IN OPPOSITION: The County of Butte states that this bill is unwise and contrary to putting environmental protection at the forefront of wise public policy. The Coastal Watershed Council is concerned that the elimination of any environmental and local review, with appropriate compliance monitoring, may result in even greater syringe and medical waste in the natural environment and particularly in our watersheds, rivers, lakes and coastal waters. The Valley Women's Club of San Lorenzo Valley opposes State expansion of non-governmental syringe distribution programs without environmental review or local input and, especially, compliance monitoring, and without these crucial processes, we face increased health and safety risks to the local community.

ASSEMBLY FLOOR: 49-20, 5/27/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Burke, Calderon, Carrillo, Chau, Chiu, Cooley, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Nazarian, O'Donnell, Quirk, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Ting, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Choi, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Lackey, Mathis, Muratsuchi, Nguyen, Patterson, Petrie-Norris, Seyarto, Smith, Stone, Valladares, Voepel

NO VOTE RECORDED: Boerner Horvath, Cervantes, Chen, Kiley, Maienschein, Mayes, Quirk-Silva, Ramos, Villapudua

Prepared by: Melanie Moreno / HEALTH / (916) 651-4111
8/18/21 14:20:34

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