
THIRD READING

Bill No: SB 57
Author: Wiener (D), et al.
Amended: 3/25/21
Vote: 21

SENATE HEALTH COMMITTEE: 7-3, 3/10/21
AYES: Pan, Eggman, Gonzalez, Leyva, Limón, Roth, Wiener
NOES: Melendez, Grove, Hurtado
NO VOTE RECORDED: Rubio

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 4/6/21
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SUBJECT: Controlled substances: overdose prevention program

SOURCE: California Association of Alcohol and Drug Program Executives
California Society of Addiction Medicine
Drug Policy Alliance
HealthRIGHT 360
San Francisco AIDS Foundation
Tarzana Treatment Centers

DIGEST: This bill permits the City and County of San Francisco, the County of Los Angeles, and the City of Oakland to approve entities to establish and operate overdose prevention programs (OPPs) until January 1, 2027. This bill requires OPPs to provide specified services, including supervision by trained staff and referrals for treatment.

ANALYSIS:

Existing law:

- 1) Prohibits the prescription, administration, or dispensing of a controlled substance to an addicted person, except under certain circumstances. [HSC §11154]

- 2) Permits a licensed health care provider who is authorized by law to prescribe and issue standing orders for an opioid antagonist (to prevent fatal opioid overdose) to a person at risk of an opioid-related overdose or to a family member, friend, or other person if they receive training, as specified. [CIV §1714.22]
- 3) Permits, until January 1, 2026, a pharmacist or physician, without a prescription or a permit, to furnish hypodermic needles and syringes for human use to a person 18 years of age or older, and permits a person 18 years of age or older, without a prescription or license, to obtain hypodermic needles and syringes solely for personal use. [BPC §4145.5]
- 4) Permits the California Department of Public Health to purchase sterile hypodermic needles and syringes, and other supplies, for distribution to syringe exchange projects, as specified. [HSC §121349.1]
- 5) Authorizes a clean needle and syringe exchange project in any city, county, or city and county, as specified. Prohibits staff, volunteers, and participants of an exchange project from being subject to criminal prosecution for violation of any laws related to possession, furnishing, or transfer of hypodermic needles or syringes, as specified. [HSC §121349.1]

This bill:

- 1) Permits the City and County of San Francisco (SF), the County of Los Angeles (LAC), and the City of Oakland to approve entities within their jurisdictions to establish and operate OPPs that satisfy specified requirements. Requires SF, LAC, and Oakland, prior to approving OPPs, to provide local law enforcement and public health officials and the public with an opportunity to comment in a public meeting, as specified.
- 2) Requires an entity, in order to operate OPPs, to demonstrate that it will at a minimum:
 - a) Provide a hygienic space supervised by trained staff, as specified, where people can consume controlled substances; provide sterile consumption supplies and collect used equipment; and provide secure hypodermic needle and syringe disposal services;
 - b) Monitor participants for potential overdose, and provide treatment as necessary to prevent fatal overdose;

- c) Provide access or referrals to substance use disorder (SUD) and mental health treatment services, primary medical care, and social services;
 - d) Provide access or referrals to HIV and viral hepatitis prevention, education, testing, and treatment;
 - e) Provide overdose prevention education and access to or referrals to obtain naloxone hydrochloride or other federally approved overdose reversal medication;
 - f) Educate participants regarding proper disposal of hypodermic needles and syringes, and provide participants with approved biohazard containers for syringe disposal;
 - g) Provide reasonable security of the OPP site;
 - h) Establish operating procedures for the OPP, including hours of operation, training standards for staff, a minimum number of personnel required to be onsite, a maximum number of participants to be served at one time, eligibility criteria for program participants, and an established relationship with the nearest emergency department of a general acute care hospital;
 - i) Establish and make public a good neighbor policy that facilitates communication from and to local businesses and residences, to the extent they exist, to address any neighborhood concerns and complaints;
 - j) Require that all staff present at the OPP during open hours be certified in cardiopulmonary resuscitation and first aid, as specified, and be authorized and trained to provide emergency administration of an opioid antagonist, as specified; and,
 - k) Establish a plan for staff and workplace safety.
- 3) Requires an approved entity to provide an annual report to the authorizing jurisdiction that includes information about the number of program participants, aggregate information regarding the characteristics of participants, the number of overdoses experienced and overdoses reversed onsite, and the number of persons referred to SUD treatment, primary medical care, and other services.
- 4) Prohibits a person or entity, including, but not limited to, property owners, managers, employees, volunteers, clients or participants, and city and county employees from being arrested, charged, or prosecuted pursuant to drug-related crimes, as specified; or otherwise penalized solely for actions, conduct, or

omissions related to the operation of and on the site of an OPP, as specified; or for conduct relating to the approval of an entity to operate an OPP; or the inspection, licensing, or other regulation of an OPP unless performed in a grossly negligent manner or in bad faith.

- 5) Prohibits limiting the Medical Board of California or Osteopathic Medical Board of California from taking administrative or disciplinary action against a licensee for any action, conduct, or omission related to the operation of an OPP that violates the Medical Practice Act pursuant to each board's authority, as specified.
- 6) Sunsets the provisions in this bill on January 1, 2027.

Comments

Author's statement. According to the author, California is in the midst of an unprecedented overdose crisis that must be treated as a public health crisis. Since 2011, drug overdose has been the leading cause of accidental death among adults in California. In the context of the COVID-19 pandemic in the United States and in California, the already alarming rate of drug overdose is worsening. A recent study of Emergency Medical Services data in the *Journal of the American Medical Association* found overdose rates were doubled in May of 2020, compared to 2019. More than 40 states have documented increases in opioid overdoses since the beginning of shelter in place. OPPs, also called supervised consumption services, are a necessary intervention to prevent overdose deaths. Approximately 165 OPPs exist in ten countries, and have been rigorously researched and shown to reduce health and safety problems associated with drug use, including public drug use, discarded syringes, HIV and hepatitis infections, and overdose deaths. In these desperate times, this bill provides California with the opportunity to lead by example and to equip itself with another tool that is scientifically proven to help prevent and decrease overdose deaths.

NOTE: For a more extensive analysis, please see the Senate Health Committee analysis dated March 8, 2021.

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

SUPPORT: (Verified 4/6/21)

California Association of Alcohol and Drug Program Executives (co-source)
California Society of Addiction Medicine (co-source)
Drug Policy Alliance (co-source)
HealthRIGHT 360 (co-source)

San Francisco AIDS Foundation (co-source)
Tarzana Treatment Centers (co-source)
Access Support Network
ACLU California
AIDS Legal Referral Panel
American Academy of HIV Medicine California/Hawaii Chapter
APLA Health
Asian American Drug Abuse Program, Inc.
Asian and Pacific Islander Wellness Center
Being Alive - LA
Bienestar Human Services
CA Bridge
California Association of Social Rehabilitation Agencies
California Consortium of Addiction Programs and Professionals
California Public Defenders Association
Californians for Safety and Justice
City of Oakland
City of San Francisco
Community Clinic Association of Los Angeles County
Community Legal Services in East Palo Alto
County Behavioral Health Directors Association of California
County of Los Angeles
Desert AIDS Project
Ella Baker Center for Human Rights
End Hep C SF
Friends Committee on Legislation of California
Getting to Zero San Francisco
GLIDE
Harm Reduction Coalition
Harm Reduction Coalition of Santa Cruz County
Harm Reduction Services
HIVE
Housing California
Immigrant Legal Resource Center
Inland Empire Harm Reduction
Larkin Street Youth Services
Law Enforcement Action Partnership
Legal Services for Prisoners with Children
Los Angeles Continuum of Care
Los Angeles County Board of Supervisors

Los Angeles District Attorney's Office
Los Angeles Homeless Services Authority
Los Angeles LGBT Center
Los Angeles Regional Reentry Partnership
NAMI San Francisco
National Association of Social Workers, California Chapter
National Harm Reduction Coalition
National Health Law Program
Planned Parenthood Affiliated of California
Psychiatric Physicians Alliance of California
Rafiki Coalition for Health & Wellness
San Francisco Bay Area Rapid Transit District
San Francisco Chamber of Commerce
San Francisco Community Health Center
San Francisco District Attorney Chesa Boudin
San Francisco Getting to Zero Consortium
San Francisco Hepatitis C Task Force
San Francisco Marin Medical Society
San Francisco Mayor London N. Breed
San Francisco Public Defender
San Francisco Senior and Disability Action
San Francisco Tax Payers for Public Safety
San Francisco Travel Association
Senior and Disability Action
Shanti Project
Sierra Harm Reduction Coalition
Smart Justice California
St. James Infirmary
Team Lily
Tides Advocacy
Transitions Clinic Network
Treatment Action Group
Treatment on Demand Coalition
UCSF Alliance Health Project
Valley Community Healthcare
We the People - San Diego
Women Organized to Respond to Life Threatening Diseases
Three Individuals

OPPOSITION: (Verified 4/6/21)

Alliance to Protect Children
California Association of Code Enforcement Officers
California Coalition Against Drugs
California College and University Police Chiefs Association
California District Attorneys Association
California Family Council
California Narcotic Officers' Association
California Peace Officers' Association
California State Sheriffs' Association
Capitol Resource Institute
Congress of Racial Equality
Peace Officers' Research Association of California
Riverside Sheriffs' Association
53 Individuals

ARGUMENTS IN SUPPORT: The co-sponsors of this bill and other supporters, largely health care providers and health and justice advocates, state that OPPs/SIFs, such as those that could be established under this bill, are sites where individuals are able to use controlled substances in a clinical setting with expert supervision and sterile supplies. They have been shown to reduce health and safety problems associated with drug use, including public drug use, discarded syringes, HIV and hepatitis infections, and overdose deaths. People who used such programs in Canada were more likely to enter treatment and more likely to stop using drugs. They are an evidence-based, effective response to address the harms of drug use for individuals and communities. Supporters further state that in 2019 there was an emergency room admission for overdose in California every 11 minutes. Approximately 5,401 people died of drug overdose in California in 2018. Current data suggests that in the context of the COVID-19 pandemic in the United States and in California, the already-high rate of fatal drug overdose is worsening. Drug overdose has been the leading cause of accidental death in the United States, every year since 2011, and California is one of five states in which rates of overdose continue to rise. In the midst of the pandemic in 2020, SF had more deaths (621) attributable to overdose than COVID-19 (173). Supporters state that death rates among homeless people in SF also spiked since the first confirmed COVID-19 case in the Bay Area. Between March 30 and May 24 of 2020, 48 homeless people died, compared to 14 during the same period in 2019, according to data provided by the SF Department of Health. Physicians suggest that fatal drug overdose rates worsened, in part due to disruption of shelter and services due to the coronavirus pandemic. Supporters argue that the COVID-19 pandemic has increased the

urgency of the need for OPP services. Unhoused individuals, including those who use drugs, are experiencing the brunt of the dislocations, economic pressures, and closure of services as a result of COVID-19. OPPs not only reduce overdose deaths but also reduce the need for ambulance calls, ED visits, and hospital beds—resources stretched thin by COVID-19. Supporters argue OPPs can prevent the potential transmission of COVID-19, as well as provide sterile equipment and additional opportunities for hand washing and sanitation. OPPs are complementary to other strategies of decarceration and reduced use of policing to address public health issues, such as drug use, by removing people who use drugs from the streets. Supporters state that in the context of the national debate to re-imagine public safety and emergency responses, OPPs should be in the foreground of the strategies used to address the needs of community members living at the intersection of homelessness, mental illness, and substance use. These programs will act as health settings that will mitigate overdose mortality rates, as well as emergency room use.

ARGUMENTS IN OPPOSITION: Opponents of this bill, largely law enforcement organizations, state that Governor Brown’s previous veto of a similar bill is as applicable to the deficiencies in this bill as they were to the shortcomings of AB 186. Opponents argue that there is no pathway to treatment, nor is there any effort to assure that persons leaving OPPs are not so impaired as to harm themselves or others. Rather than a robust effort to get addicts into treatment, this bill concedes the inevitable and immutable nature of drug addiction and abuse. Opponents state that missing from this bill are any strategies to appropriately utilize methadone alternatives, mandatory treatment protocols, onsite drug counseling, or even efforts to gradually wean an addict off the cycle of dependence. In effect, the unintended consequence of this bill is to normalize substance abuse. Opponents argue that this bill creates other problematical issues, including tremendous liability issues, law enforcement’s inability to respond to calls, and the concentration of drug addicts. Opponents argue this bill also exacerbates the COVID-19 pandemic because people will congregate in one location and not socially distance.

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
4/7/21 15:15:02

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