Date of Hearing: June 1, 2022
Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

SB 57 (Wiener) – As Amended January 18, 2022

SUMMARY: Authorizes the City and County of San Francisco, the City and County of Los Angeles, and City of Oakland to allow an entity to operate an overdose prevention program within each jurisdiction. Specifically, **this bill**:

1) Authorizes the City and County of San Francisco, the County of Los Angeles, the City of Los Angeles, and the City of Oakland to approve entities within their jurisdictions to establish and operate overdose prevention programs, as specified.

2) Requires participating counties and/or cities to provide local law enforcement officials, local public health officials, and the public with an opportunity to comment in a public meeting.

3) Requires that notice of the public meeting be sufficient to ensure adequate participation by the public.

4) Requires an entity, in order to be approved to operate an overdose prevention program, to demonstrate that it will, at a minimum:

    a) Provide a hygienic space to consume controlled substances under supervision of staff trained to prevent and treat drug overdoses;

    b) Provide sterile consumption supplies, collect used equipment, and provide secure hypodermic needle and syringe disposal services;

    c) Monitor participants for potential overdose and provide care as necessary to prevent fatal overdose;

    d) Provide access or referrals to substance use disorder treatment services, primary medical care, mental health services, and social services;

    e) Provide access or referrals to HIV and viral hepatitis prevention, education, testing, and treatment;

    f) Provide overdoes prevention education and access or referrals to obtain naloxone hydrochloride or other overdose reversal medication approved by the U.S. Food and Drug Administration;

    g) Educate participants regarding proper disposal of hypodermic needles and syringes and provide participants with approved biohazard containers for syringe disposal;

h) Provide reasonable security of the program site;

i) Establish operating procedures for the program including, but not limited to, standard hours of operation, training standards for staff, a minimum number of personnel required to be onsite during those hours of operation, the maximum number of individuals who can be served at one time, and an established relationship with the nearest emergency department of a general acute care hospital, as well as eligibility criteria for program participants;

j) Require that all staff present at the program during open hours be certified in cardiopulmonary resuscitation (CPR) and first aid;

k) Require that all staff present at the program during open hours be authorized to provide emergency administration of an opioid antagonist, and be trained in the administration of an opioid antagonist, as specified; and,

l) Establish a plan for staff and workplace safety.

5) Requires entities operating an overdose prevention program to provide an annual report to the authorizing jurisdiction including the following:

a) The number of program participants;

b) Aggregate information regarding the characteristics of program participants;

c) The number of overdoses experienced and the number overdoses reversed onsite; and,

d) The number of persons referred to substance use disorder treatment, primary medical care, and other services.

6) Requires all local jurisdictions that choose to participate in the overdose prevention program to confer and choose a single independent entity to conduct a peer-reviewed study of both of the following, based on the collected data and other data gathered by the entity:

a) The statewide efficacy of the overdose prevention programs, including, but not limited to, number of participants, aggregate information regarding characteristics of the participants, overdoses onsite, reversals onsite, participants referred to treatment, hospitalizations after being see at a program site, fatalities in hospitals after being seen at a program site, and fatalities onsite; and

b) Community impacts of the overdose prevention program, including, but not limited to, an increase or decrease in crime, syringe litter, public drug use, and aggregate information on the attitudes of nearby businesses and community members.

7) Requires the independent entity conducting the study to be either a private, nonprofit, nonpartisan research organization or a research university in the United States, as specified.

8) Requires the study to be submitted to the Legislature and the Governor's office on or before January 15, 2027.

9) Requires the participating jurisdictions and the selected independent entity to fund the study through private donations, grants, and local funds.

10) Requires a local jurisdiction, prior to opting in to the pilot program, to consent to funding the component of the study relating to its jurisdiction and program.

11) Provides that a person or entity, including, but not limited to, property owners, managers, employees, volunteers, clients or participants, and employees of the participating jurisdictions acting in the course and scope of employment, engaged, in good faith, in the activities of an overdose prevention program in accordance with established protocols and on the program site, will not be subject to the following:

    a) Arrest, charge, or prosecution, as specified, including for attempt, aiding and abetting, or conspiracy to commit a violation of specified sections, for activity or conduct on the site of an overdose prevention program; or

    b) Civil or administrative penalty or liability or disciplinary action by a professional licensing board for conduct relating to the approval of an entity to operate, inspection, licensing, or other regulation unless performed in a grossly negligent manner or in bad faith.

12) Provides that these provisions do not limit the Medical Board of California or the 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 overdose prevention program that violates the Medical Practice Act, as specified.

13) Provides a sunset date of January 1, 2028.

14) Includes Legislative findings and declarations.

EXISTING LAW:

1) Provides that the possession of cocaine, cocaine base, heroin, opium, and other specified controlled substances listed in the controlled substance schedule, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in a county jail for not more than one year, except at specified. (Health and Saf. Code, § 11350, subd. (a).)

2) Makes the possession of methamphetamine and other specified controlled substances listed in the controlled substance schedule, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, punishable by imprisonment in a county for a term not to exceed one year, except as specified. (Health and Saf. Code, § 11377, subd. (a).)

3) States that any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly rents, leases, or makes available for use, with or without compensation, the building, room, space, or enclosure for the purpose of unlawfully manufacturing, storing, or distributing any controlled substance for sale or distribution can be punished by imprisonment in the county jail up to three years (Health & Saf. Code, § 11366.5, subd. (a).)

4) Specifies that any person who utilizes a building, room, space, or enclosure specifically designed to suppress law enforcement entry in order to sell, manufacture, or possess for sale any amount of drugs, as specified, shall be punished by imprisonment in the county jail for three, four, or five years. (Health & Saf. Code, § 11366.6.)

5) Provides that until January 1, 2021, as a public health measure intended to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among persons who use syringes and hypodermic needles, and to prevent subsequent infection of sexual partners, newborn children, or other persons, the possession solely for personal use of hypodermic needles or syringes if acquired from a physician, pharmacist, hypodermic needle and syringe exchange program, or any other source that is authorized by law to provide sterile syringes or hypodermic needles without a prescription shall not be criminalized. (Health & Saf. Code, § 11364, subd. (c).)

6) Specifies that notwithstanding any other provision of law and until January 1, 2021, as a public health measure intended to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among persons who use syringes and hypodermic needles, and to prevent subsequent infection of sexual partners, newborn children, or other persons, a physician or pharmacist may, without a prescription or a permit, furnish hypodermic needles and syringes for human use to a person 18 years of age or older, and a person 18 years of age or older may, without a prescription or license, obtain hypodermic needles and syringes solely for personal use from a physician or pharmacist. (Bus. & Prof. Code, § 4145.5, subd. (b).)

7) Classifies controlled substances in five schedules according to their danger and potential for abuse. Schedule I controlled substances have the greatest restrictions and penalties, including prohibiting the prescribing of a Schedule I controlled substance. (Health & Saf. Code, §§ 11054 to 11058.)

FISCAL EFFECT: Unknown.

COMMENTS:

7) **Author's Statement**: According to the author, "Senate Bill 57 will allow, but not mandate, the outlined jurisdictions the discretion to authorize overdose prevention programs (OPPs). California is in the midst of an 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 COVID-19 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 doubled in May of 2020,

compared to the year prior. More than 40 states have documented increases in opioid overdoses since the beginning of shelter in place.

"OPPs are a necessary intervention to prevent overdose deaths. Approximately 165 OPPs exist in 10 countries, and have been rigorously researched and shown to effectively get people into recovery and reduce health and safety problems associated with drug use, discarded syringes, HIV and hepatitis infections, and overdose deaths.

"In these desperate times, SB 57 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."

8) **Overdose Prevention Programs:** Harm reduction is a public heath approach, employing a spectrum of strategies, to minimizing the adverse personal and public health consequences of drug use. Overdose prevention programs (OPPs), also known as supervised injection facilities, safe consumption spaces, or safe injection sites, are one such strategy. OPPs are legally sanctioned facilities where people who use drugs can use pre-obtained drugs under the supervision of a health care provider. They reduce the health and societal problems associated with drug use by, among other things, providing sterile injection equipment, information about reducing the harms of drugs, health care services, treatment referrals, and access to medical staff.

Last year, the National Institute of Health (NIH), in collaboration with the Centers for Disease Control and Prevention (CDC), evaluated available evidence on the effectiveness OPPs. According to the NIH,

> The preponderance of the evidence suggests these sites are able to provide sterile equipment, overdose reversal, and linkage to medical care for addiction, in the virtual absence of significant direct risks like increases in drug use, drug sales, or crime. [OPPs] may represent a novel way of addressing some of the many challenges presented by the overdose crisis, and they could contribute to reduced morbidity and mortality, and improved public health.

(NIH, Overdose Prevention Centers Report (2021) at p. 11 <https://nida.nih.gov/sites/default/files/NIH-RTC-Overdose-Prevention-Centers.pdf?msclkid=8a355bd6b9b011ec88e1f771ad99415b> [last visited May 25, 2022] ["NIH report"]; see also, Armbrecht et al., *Supervised Injection Facilities and Other Supervised Consumption Sites: Effectiveness and Value; Final Evidence Report*, Institute for Clinical and Economic Review (Jan. 8, 2021); European Monitoring Centre for Drugs and Drug Addiction, Drug consumption rooms: an overview of provision and evidence (July 6, 2018); amfAR, The Case for Supervised Consumption Services (July 2017).) The NIH reported that "best evidence from cohort and modeling studies suggests that OPPs are associated not only with lower overdose mortality (approximately 88 fewer overdose deaths per 100,000 person-years, according to the most positive estimates), but also 67 percent fewer ambulance calls for treating overdoses…." (NIH Report, *supra*, at p. 6) It also found no evidence that an OPP client has ever died from an overdose while consuming drugs at a facility; that OPP attendance may be "one of the strongest factors associated with drug treatment referral uptake"; and that there is no evidence the OPPs increase crime. (NIH report, *supra*, pp. 5-9.)

OPPs have support from major medical associations. In April 2017, a Massachusetts Medical Society (MMS) task force examining the effectiveness of OPPs voted unanimously to recommend that Massachusetts establish an OPC pilot program. (MMS, Establishment of a Pilot Medically Supervised Injection Facility in Massachusetts: Report of the Task Force on Opioid Therapy and Physician Communication (April 2017) p. 6 <www.massmed.org/advocacy/state-advocacy/sif-report-2017/> [last viewed Apr. 12, 2022].) Since MMS's recommendation, the American Medical Association (AMA) and the American Society of Addiction Medicine (ASAM) have both endorsed OPP pilot programs. (Press Release, *AMA wants new approaches to combat synthetic and injectable drugs*, AMA (June 12, 2017) <https://www.ama-assn.org/press-center/press-releases/ama-wants-new-approaches-combat-synthetic-and-injectable-drugs> [last viewed Apr. 12, 2022]; ASAM, Public Policy Statement on Overdose Prevention Sites (July 22, 2021) <https://www.asam.org/advocacy/public-policy-statements/details/public-policy-statements/2021/08/09/overdose-prevention-sites?msclkid=35305664b9bb11ec8052d93584f18a27> [last visited Apr. 12, 2022].). The California Society of Addiction Medicine (CSAM) is a co-sponsor of this bill.

4) **Existing Overdose Prevention Programs:** According to Drug Policy Alliance, there are more than 110 OPPs operating worldwide. The most prominent and longest running OPP in North America is Insite in Vancouver, Canada. Established in 2003, Insite was designed as part of a continuum of care for people with substance use disorders, mental illness, and HIV/AIDS. In 2015, Insite reportedly had 263,713 visits to the site by 6,532 unique individuals with an average of 722 visits per day and an average of 440 injection room visits per day. There were 5,359 clinical treatment interventions, and 5,368 referrals to other social and health services. Additionally, there were 464 admissions into their adjoining detox treatment facility, which recorded a program completion rate of 54%. Since 2003, several additional OPPs have been approved and opened throughout Canada. (<https://www.canada.ca/en/health-canada/services/substance-use/supervised-consumption-sites/status-application.html#wb-auto-2> [as of May 23, 2022.]

   Until recently, the U.S. did not have any operational OPPs. But cities and states are now considering whether OPPs may help reduce the harms to individuals and society resulting from the opioid epidemic.

   a) *Undisclosed location in the U.S*

      In September 2014, an organization in an undisclosed U.S. city opened an unsanctioned OPP. In August 2020, a letter was published in the New England Journal of Medicine containing the results of an evaluation of its first five years of operation. (https://www.nejm.org/doi/suppl/10.1056/NEJMc2015435/suppl_file/nejmc2015435_appendix.pdf) Injections were monitored by trained staff and were conducted with sterile equipment. All syringes were used only once and were disposed of safely at the site. Site staff used an online data-collection system to document every drug injection, type of drug used, opioid-involved overdose, and related death that occurred during injections at the site.

      The evaluation found there were 10,514 injections and 33 opioid-involved overdoses between 2014 and 2019, all of which were reversed by naloxone administered by trained staff. Reportedly, no person who overdosed was transferred to an outside medical

institution, and there were no deaths. Overdoses increased over the years as injections also increased over the same period of time. The types of drugs used at the site changed over the five years with a steady increase in the proportion of injections involving the combination of opioids and stimulants, from 5% in 2014 to 60% in 2019. The evaluation generally concluded that implementing sanctioned OPPs in the United States could reduce mortality from opioid-involved overdose, and could allow participants to link to other medical and social services, including substance use disorder (SUD) treatment.

b) *New York*

In December 2021, New York City opened the country's first OPP. Preliminary evidence suggests these facilities likely have been effective at preventing fatal drug overdoses. In the five months since opening, the two facilities have been reversed more than 280 overdoses, and "[m]ore than 1,100 New Yorkers have visited the two sites over 17,000 times. (Young, *New York experiment with government-approved drug use could become a national model*, Politico (May 14, 2022) <https://www.politico.com/news/2022/05/14/new-york-experiment-drug-use-national-model-00031876> [last viewed May 25, 2022].) And earlier this year, after the OPPs reported reversing 120 overdoses, some noted "the logical step is to think about strategic expansion" and called on Congress to get rid of obstacles to OPP implementation. (Editorial Board, *Stayin' alive: Overdose prevention centers are saving New Yorkers*, N.Y. Daily News (Jan. 29, 2022) < https://www.nydailynews.com/opinion/ny-edit-drug-use-overdoses-safe-injection-sites-harm-reduction-opioids-20220129-mvyek7uosrezblc2bztjkgslky-story.html> [last viewed Apr. 12, 2022].)

c) *San Francisco*

In June 2020, the San Francisco County Board of Supervisors unanimously approved an ordinance that would create a system to issue permits to non-profit organizations that want to operate OPPs in San Francisco. (<https://www.courthousenews.com/san-francisco-oks-process-to-open-safe-injection-sites/> [as of May 25, 2022].) In early 2020, the U.S. Attorney for the Northern District of California publicly stated that the government would file a lawsuit if San Francisco moved forward with opening OPPs. (<https://www.kqed.org/news/11804290/us-attorney-threatens-legal-action-if-san-francisco-opens-supervised-injection-sites> [as of May 25, 2022].) However, as discussed below, the federal government has signaled that it is reviewing its opposition to OPPs.

5) **AB 186 Veto Message:** AB 186 (Eggman) of the 2017-2018 legislative session would have authorized the City and County of San Francisco to open an OPP. Governor Brown vetoed AB 186 stating:

I am returning Assembly Bill 186 without my signature.

This bill authorizes the City and County of San Francisco to approve "overdose prevention programs," including the establishment of centers where illegal drugs can be injected under sanitary conditions.

The supporters of this bill believe these "injection centers" will have positive impacts, including the reduction of deaths, disease and infections resulting from drug use. Other authorities-including law enforcement, drug court judges and some who provide rehabilitative treatment-strongly disagree that the "harm reduction" approach envisioned by AB 186 is beneficial.

After great reflection, I conclude that the disadvantages of this bill far outweigh the possible benefits.

Fundamentally, I do not believe that enabling illegal drug use in government sponsored injection centers-with no corresponding requirement that the user undergo treatment-will reduce drug addiction.

In addition, although this bill creates immunity under state law, it can't create such immunity under federal law. In fact, the United States Attorney General has already threatened prosecution and it would be irresponsible to expose local officials and health care professionals to potential federal criminal charges.

Our paramount goal must be to reduce the use of illegal drugs and opioids that daily enslaves human beings and wreaks havoc in our communities. California has never had enough drug treatment programs and does not have enough now. Residential, outpatient and case management-all are needed, voluntarily undertaken or coercively imposed by our courts. Both incentives and sanctions are needed. One without the other is futile.

There is no silver bullet, quick fix or piecemeal approach that will work. A comprehensive effort at the state and local level is required. Fortunately, under the Affordable Care Act, California now has federal money to support a much expanded system of care for the addicted. That's the route we should follow: involving many parties and many elements in a thoroughly integrated undertaking.

I repeat, enabling illegal and destructive drug use will never work. The community must have the authority and the laws to require compassionate but effective and mandatory treatment. AB 186 is all carrot and no stick.

This bill would expand the authorization to establish OPPs to include the City and County of Los Angeles and the City of Oakland, in addition to the City and County of San Francisco. This bill is otherwise substantially similar to AB 551.

6) **Conflict with Federal Law:** Two federal statutes are particularly relevant with respect to the activity occurring at an OPP. Federal law prohibits "any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized." (21 U.S.C. § 844.) It also provides that it is unlawful to:

> (a) knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance;

> (b) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance. (21 U.S.C. § 856.)

After Safehouse, a non-profit providing a range of harm reduction services, announced that it would open an OPP in Philadelphia, the U.S. Attorney for the Eastern District of Pennsylvania sued to block the facility from opening and sought a declaratory judgment that supervised injection sites violate 21 U.S.C. § 856(a). (<https://whyy.org/articles/federal-prosecutors-sue-to-stop-nations-first-planned-supervised-injection-site-in-philly/> [as of May 25, 2022].)

The district court denied the government's motion in October 2019, finding that section 856(a) "does not prohibit Safehouse's proposed medically supervised consumption rooms because Safehouse does not plan to operate them 'for the purpose of' unlawful drug use within the meaning of the statute." (*U.S. v. Safehouse* (E.D.Pa. 2019) 408 F.Supp. 3d 583, 587.) The court's analysis noted the absence of a controlling standard of the statutory construction of 21 U.S.C. § 856(a) because the Third Circuit had not yet considered the proper construction of this section, and no court of appeal had considered its application to OPPs. (*Id*. at p. 588.) Applying established rules of statutory interpretation, the court held that Congress had not intended for the statute to apply to OPPs when it enacted the law in 1986, or when it amended it in 2003. OPPs were not part of the public discourse on addressing drug use at either time. (*Id*. at p. 616.) The government appealed the district court's order and simultaneously filed an emergency motion to stay the order, which the district court granted in June 2020 in light of the COVID-19 pandemic and civil unrest following the killing of George Floyd. (*U.S. v. Safehouse* (E.D.Pa. 2020) 468 F.Supp.3d 687.)

In July 2020, then-Attorney General Xavier Becerra joined a multi-state amicus brief filed in support of Safehouse. (https://oag.ca.gov/news/press-releases/attorney-general-becerra-joins-multistate-amicus-brief-support-public-health)

In January 2021, a three-judge panel of the U.S. Third Circuit Court of Appeals issued a 2-1 ruling reversing the district court, finding:

> Because Safehouse knows and intends that its visitors will come with a significant purpose of doing drugs, its safe-injection site will break the law. Although Congress passed § 856 to shut down crack houses, its words reach well beyond them. Safehouse's benevolent motive makes no difference. And even though this drug use will happen locally and Safehouse will welcome visitors for free, its safe-injection site falls within Congress's power to ban interstate commerce in drugs. (*U.S. v. Safehouse* (3d Cir. 2021) 985 F.3d 225, 229.)

Safehouse filed a petition for rehearing *en banc*, which the court denied. (*U.S. v. Safehouse* (3d Cir. 2021) 991 F.3d 503. The U.S. Supreme Court later denied Safehouse's petition for a writ of certiorari on October 12, 2021. (*Safehouse v. DOJ* (2021) 142 S.Ct. 345.)

Earlier this year, however, the DOJ signaled that it may allow OPPs to open despite the

federal prohibition, telling that Associated Press that it is evaluating OPPs and talking to regulators about "appropriate guardrails." (Peltz & Balsamo, *Justice Dept. signals it may allow safe injection sites*, ABC News (Feb. 7, 2022) <https://abcnews.go.com/Health/wireStory/justice-dept-signals-safe-injection-sites-82729845?msclkid=5ab593afbaa111ec9fbee3582ea246a6> [Apr. 12, 2022].) Indeed, the federal government is expected to abandon its opposition to Safehouse later this month. (Young, *supra*.)

7) **Argument in Support**: According to the *California Society of Addiction Medicine*, one of the bill's sponsors: "This life-saving legislation would allow the City and County of San Francisco, the City and County of Los Angeles, and the City of Oakland the discretion to authorize overdose prevention programs where adults may use controlled substances under the supervision of staff trained to prevent, and treat overdose, prevent HIV and hepatitis infection, and facilitate entry into drug treatment and other services.

"This bill is consistent with the recommendation of the American Medical Association announced June 12, 2017, to support the:

> development of pilot facilities where people who use intravenous drugs can inject self-provided drugs under medical supervision….Studies from other countries have shown that supervised injection facilities reduce the number of overdose deaths, reduce transmission rates of infectious disease, and increase the number of individuals initiating treatment for substance use disorders without increasing drug trafficking or crime in the areas where the facilities are located.

"Overdose prevention programs (OPPs) – also known as supervised consumption services (SCS) – such as those that could be established under this bill, provide a sanctioned, safe space for people to consume pre-obtained drugs in controlled settings under the supervision of trained staff. These staff have access to sterile consumption equipment and tolls to check participants' drug supply for the presence of fentanyl. Participants can also receive health care, counseling, and referrals to health and social services, including drug treatment.

"Overdose prevention programs 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 a program in Canada were both more likely to enter treatment and more likely to stop using drugs. A recent study of an unsanctioned site in the US found that overall criminal activity did not increase in the surrounding area.[1] OPPs are an evidence-based, effective public health intervention that could help address the harms of drug use for individuals and communities.

"The COVID-19 pandemic has greatly increased the urgency for these services in San Francisco, Los Angeles, and Oakland. People who use drugs and are unhoused are experiencing the brunt of the dislocations, economic pressures, and closure of services as a result of COVID-19. San Francisco saw over three times as many deaths from drug overdoses as COVID-19 in 2020—a 60 percent increase in overdose deaths from 2019—and

[1] Davidson, P.J., Lambdin, B.H., Browne, E.N., Wenger, L.D., Kral, AH. (2021) "Impact of an unsanctioned safe consumption site on criminal activity," 2010–2019. *Drug and Alcohol Dependence* 220(108521). https://doi.org/10.1016/j.drugalcdep.2021.108521

overdoes fatalities continued to rise in 2021.[2] OPPs not only reduce overdose deaths, but also reduce the need for ambulance calls, emergency department visits,[3] and hospital beds—resources that are stretched thin by the pandemic. OPPs are complementary to other alternatives to incarceration strategies since it addresses drug use through a public health lens rather than through a law enforcement approach. OPPs do this by removing people who use drugs from the streets, consequently reducing potential interactions with the police.

"In July 2021, Rhode Island became the first state in that nation to authorize a two-year pilot program[4] to establish 'harm reduction centers' where people can consume pre-obtained substances under the supervision of trained staff. In December 2021, New York City opened the nation's first-ever Overdose Prevention Centers in Harlem and Washington Heights.[5] Since opening, the sites have helped reverse about 280 overdoses,[6] and within a month of opening the syringes count in the park near one of the safe injection sites dropped from 13,00 to 1,000.[7] New York City has demonstrated that the operation of overdose prevention programs is possible. The Biden Administration early this year signaled their support for OPPS by stating that they are evaluating these programs and 'appropriate guardrails.'[8]

"Providing people who use drugs with overdose prevention services saves costs due to a reduction in the transmission of infectious disease; overdose and overdose death; and reliance on law enforcement, courts and jails, emergency rooms, and related medical services. A 2016 study found that every dollar spent in San Francisco on an OPP would generate $2.33 in savings, for a total annual net savings of $3.5 million for a single 13-booth facility.[9]"

8) **Argument in Opposition**: According to the *Organization for Justice & Equality*, "This stealth attempt to virtually legalize all drugs, if approved, will create a disgraceful, degenerating, and disastrous chapter in California! There is concrete evidence everywhere, including Europe, Canada, and Australia, that illegal drug injection sites will simply encourage drug addicts to keep using heavy weight illegal drugs while attracting drug dealers, drug addicts, robbers, and vagabonds, to the vicinity of such sites.

"Democratic California Assemblyman Jim Cooper, who focused much on crime and drugs,

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[2] Thadani, Trisha. "2020 was SF's deadliest year for overdoses, by far." *San Francisco Chronicle*, Jan. 15, 2021. https://www.sfchronicle.com/local-politics/article/It-didn-t-have-to-happen-2020-was-15872937.php

[3] Lambdin, B.H., Davidson, P.J., Browne, E.N. *et al.* Reduced Emergency Department Visits and Hospitalisation with Use of an Unsanctioned Safe Consumption Site for Injection Drug Use in the United States. *Journal of General Internal Medicine* (2022). https://doi.org/10.1007/s11606-021-07312-4

[4] Drug Policy Alliance. (2021, July). Drug Policy Alliance Statement on Rhode Island Becoming First in the Nation to Authorize Harm Reduction Centers to Prevent Overdose Deaths. Retrieved from https://drugpolicy.org/press-release/2021/07/drug-policy-alliance-statement-rhode-island-becoming-first-nation-authorize

[5] Drug Policy Alliance. (2021, November). New York City to Open Nation's First-Ever Overdose Prevention Center Pilots to Save Lives Amid Record Overdoses. https://drugpolicy.org/press-release/2021/11/new-york-city-open-nations-first-ever-overdose-prevention-center-pilots-save

[6] Shannon Young. New York experiment with government-approved drug use could become a national model. *Politico, May 14,* 2022. https://www.politico.com/news/2022/05/14/new-york-experiment-drug-use-national-model-00031876

[7] Zipkin, Michael. "QTBIPOC leaders hold annual health symposium." *Philadelphia Gay News,* Feb. 9, 2022. https://epgn.com/2022/02/09/qtbipoc-leaders-hold-annual-health-sypmposium/

[8] Balsamo, Michael, and Jennifer Peltz. "Justice Dept. signals it may allow safe injection sites." *Associated Press,* Feb. 7, 2022. https://apnews.com/article/business-health-new-york-c4e6d999583d7b7abce2189fba095011?utm_medium=AP&utm_source=Twitter&utm_campaign=SocialFlow

[9] Irwin, A., Jozaghi, E., Bluthenthal, R. N., Kral, A. H. "A Cost-Benefit Analysis of a Potential Supervised Injection Facility in San Francisco, California, USA." *Journal of Drug Issues* 47.2 (2016): 164–184. https://idhdp.com/media/531280/sifsanfrancisco.pdf

stated, 'Evidence in various countries has substantiated that illegal drug injection sites had caused more drug overdose deaths and crime. It is blatant violation of the law and certainly wrong for proponents to force the issue.'

"Vancouver, for example, after eighteen years of operations of such a site, had an approximate 1,000% increase in drug overdose death as reflected by the statistics of British Columbia Coroners Services. Importantly, it was found that only 5% of the drug addicts regularly visited the injection site, thus successfully refuting the proponents' claim that the injection sites are really effective in reducing or controlling drug use.

"Moreover, according to European Center for Monitoring Drugs and Drug Addiction (EMDDA), overdose deaths actually doubled five years after the introduction of injection sites in the Netherlands. It was more than double again twenty years later.

"On the contrary, the vicinity of the injection site always has the largest number of needles since it usually becomes a center for drug dealing and drug consumption, not to mention the related robbery and homelessness. Drug addicts usually just buy the heavy weight drugs and inject right there. Small Business Australia Executive Director Bill Lang said the government should compensate business owners within 1km of the Australian site for loss of earnings. Vancouver Chinatown, according to Vancouver leader Rev. Wayne Lo, becomes a ghost town due to its proximity to the injection site.

"Lennart Karlsson, Chairman of Swedish Narcotic Officers' Association, further explained, 'The injection sites certainly aggravated the drug trafficking problem in Europe since people can carry heavy illegal drugs publicly utilizing the excuse of community to the injection sites, seriously tying the hands of police and government attorneys.'

"According to Charles Lehman of the Manhattan Institute in New York, 'The day after the launch, when I and a group of colleagues visited East Harlem where the injection site is located, it was clear that the injection site had already become another site for users—and dealers—to congregate.'

He maintained that an individual overdose reversed is better thought of as a death delayed than a life saved, and by facilitating the cycle of use, injection site increases the cumulative risk that a person will overdose and die outside of the site after their overdoes is reversed within it.

"'Safe drug injection sites are "crack houses" with a different name, for different addictive drugs,' said Michele Hanisee, President of Association of Deputy District Attorneys, 'Instead of using taxpayers' dollars to support drug user's addiction, a far better use of resources would be free, medically supervised detox and drug treatment programs. Addiction requires intervention, not accommodation.'

"Importantly, since SB57 does not require drug addicts using the injection sites to have drug treatment, basically proponents of the bill are shamelessly creating an opium den or illegal drug consumption center!...

"Now with the unprecedented surplus of $97.5 billion, it is about time that California put much more resources on drug treatment and drug prevention, but no introducing drug

injection sites."

9) **Related Legislation**:

a) AB 1673 (Seyarto), would create the Anti-Fentanyl Abuse Task Force to, among other things, develop policy recommendations for the implementation of overdose prevention centers in the state. AB 1673 was held by the Assembly Appropriations Committee on the Suspense File.

b) AB 1627 (Ramos), would require the Department of Public Health (DPH) to create a pilot program to provide free naloxone to persons who complete a training program on its administration, and requires the Department of Justice (DOJ) to create a pilot program establishing and implementing overdose response teams in the Counties of San Bernardino, Riverside, and Orange. AB 1627 is pending referral in the Senate.

c) AB 1598 (Davies), would exclude from the definition of "drug paraphernalia" any testing equipment that is designed, marketed, used, or intended to be used, to analyze for the presence of fentanyl or any analog of fentanyl. AB 1698 is currently pending in the Senate Public Safety Committee.

10) **Prior Legislation**:

a) AB 362 (Eggman), of the 2019-2020 Legislative Session, was nearly identical to this bill. AB 362 was not heard in the Senate Health Committee.

b) AB 2077 (Ting), Chapter 274, Statutes of 2020, extends, until January 1, 2026 the authority of a physician or pharmacist to, without a prescription or permit, furnish hypodermic needles and syringes for human use to a person 18 years of age or older, and the authority of a person 18 years of age or older to, without a prescription or license, obtain hypodermic needles and syringes solely for personal use from a physician or pharmacist.

c) AB 186 (Eggman), of the 2017-2018 Legislative Session, was nearly identical to this bill. The Governor vetoed AB 186.

d) AB 2495 (Eggman), of the 2015-2016 Legislative Session, would have authorized state or local health departments to allow a person or entity to establish and operate an adult public health or medical intervention program intended to reduce death, disease, or injury due to the use and administration of controlled substances, including, but not limited to, supervised consumption services where adults may consume preobtained controlled substances under the supervision of staff in a safe and hygienic facility. AB 2495 was held in this committee.

e) SB 75 (Committee on Budget and Fiscal Review), Chapter 18, Statutes of 2015 permits California Department of Public Health, among other things, to purchase sterile hypodermic needles and syringes, and other supplies, for distribution to syringe exchange programs, as specified.

f) AB 1743 (Ting), Chapter 331, Statutes of 2014, authorizes, until January 1, 2021, a pharmacist or physician to provide hypodermic needles and syringes to a person 18 years of age or older solely for his or her personal use, and exempts from the prohibition of possession any amount of hypodermic needles and syringes that are acquired from an authorized source.

g) AB 831 (Bloom), of the 2013-2014 Legislative Session, would have required the California Health and Human Services Agency (CHHSA) to convene a temporary working group to develop a state plan to reduce the rate of fatal drug overdoses and would have appropriated $500,000 from the General Fund to CHHSA to provide grants to local agencies to implement drug overdose prevention and response programs. AB 831 was held by the Assembly Appropriations Committee in the Suspense File.

h) AB 136 (Mazzoni), Chapter 762, Statutes of 1999, exempted from criminal prosecution public entities and their agents and employees who distribute hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Alcohol and Drug Program Executives, INC. (Co-Sponsor)
California Society of Addiction Medicine (Co-Sponsor)
Drug Policy Alliance (Co-Sponsor)
Healthright 360 (Co-Sponsor)
San Francisco AIDS Foundation (Co-Sponsor)
Tarzana Treatment Centers, INC. (Co-Sponsor)
A New Path
Access Support Network
ACLU California Action
ACLU of California
AIDS Legal Referral Panel (ALRP)
Alcohol Justice
American Academy of HIV Medicine California/Hawaii Steering Committee
American Civil Liberties Union/Northern California/Southern California/San Diego and Imperial Counties
Any Positive Change INC.
APLA Health
Asian American Drug Abuse Program, INC.
Asian and Pacific Islander Wellness Center, INC.
Being Alive - Los Angeles
Bend the Arc: Jewish Action
Bienestar Human Services
CA Bridge
CA Council of Community Behavioral Health Agencies
California Association of Social Rehabilitation Agencies

California Consortium of Addiction Programs and Professionals
California Hepatitis Alliance (CALHEP)
California Public Defenders Association (CPDA)
Californians for Safety and Justice
Center for Living and Learning
City of Los Angeles
City of Oakland
City of San Francisco
CLARE Matrix
Community Clinic Association of Los Angeles County (CCALAC)
Community Forward SF
Community Legal Services in East Palo Alto
County Behavioral Health Directors Association
County Behavioral Health Directors Association of California
County of Los Angeles
Desert AIDS Project
Downtown Women's Center
East Bay, California State University
Ella Baker Center for Human Rights
End Hep C SF
End the Epidemics: Californians Mobilizing to End HIV, Viral Hepatitis, STIs & Overdose
Face to Face
Friends Committee on Legislation of California
Getting to Zero San Francisco
GLIDE
Harm Reduction Coalition
Harm Reduction Coalition of Santa Cruz County
Harm Reduction Los Angeles
Harm Reduction Services
HIV Education and Prevention Project of Alameda County (HEPPAC)
HIV
Homeless Health Care Los Angeles
Homerise
Housing California
Immigrant Legal Resource Center
Inland Empire Harm Reduction
LA Family Housing
Larkin Street Youth Services
Law Enforcement Action Partnership
Legal Services for Prisoners With Children
Los Angeles Community Health Project
Los Angeles Continuum Care
Los Angeles County
Los Angeles County Board of Supervisors, First and Third Districts
Los Angeles County District Attorney's Office
Los Angeles Homeless Services Authority
Los Angeles LGBT Center
Los Angeles Regional Reentry Partnership (LARRP)
Mayor London Breed, City of San Francisco

Mendocino County AIDS/Viral Hepatitis Network
NAMI San Francisco
National Association of Social Workers, California Chapter
National Harm Reduction Coalition
National Health Law Program
Planned Parenthood Affiliates of California
Psychiatric Physicians Alliance of California
R Street Institute
Rafiki Coalition for Health & Wellness
Safer Alternatives Thru Networking and Education (SANE)
San Francisco Bay Area Rapid Transit District (BART)
San Francisco Black, Jewish and Unity Group
San Francisco Chamber of Commerce
San Francisco Community Health Center
San Francisco District Attorney's Office
San Francisco Marin Medical Society
San Francisco Mayor London Breed
San Francisco Public Defender
San Francisco Senior and Disability Action
San Francisco Taxpayers for Public Safety
San Francisco Travel Association
SF Hepatitis C Task Force
Shanti Project
Sierra Harm Reduction Coalition
Smart Justice California
St James Infirmary
Students for Sensible Drug Policy
Team Lily
Tenderloin Neighborhood Development Corporation
The Gubbio Project
The Sidewalk Project
The Spahr Center
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 (WORLD)

4 Private Individuals

Opposition

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 Police Chiefs Association
California State Sheriffs' Association
Capitol Resource Institute
Congress of Racial Equality
Hermosa Coalition for Drug-Free Kids
International Faith Based Coalition
Keep California Safe
Los Angeles Professional Peace Officers Association
National Narcotic Officers' Association Coalition (NNOAC)
Organization for Justice and Equality
Peace Officers Research Association of California (PORAC)
Riverside Sheriffs' Association
Thaddeus Stevens Society

19 Private Individuals

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