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UNFINISHED BUSINESS

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Bill No: SB 57  
Author: Wiener (D), et al.  
Amended: 1/18/22  
Vote: 21

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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

SENATE FLOOR: 21-11, 4/22/21  
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman,  
Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, McGuire, Min, Pan, Roth,  
Skinner, Wieckowski, Wiener  
NOES: Bates, Borgeas, Dahle, Glazer, Grove, Hurtado, Jones, Melendez, Nielsen,  
Ochoa Bogh, Wilk  
NO VOTE RECORDED: Archuleta, Caballero, Limón, Newman, Portantino,  
Rubio, Stern, Umberg

ASSEMBLY FLOOR: 42-29, 6/30/22 - See last page for vote

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**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

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**DIGEST:** This bill permits 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 to establish and operate overdose prevention programs (OPPs) until January 1, 2028. This bill requires OPPs to provide specified services, including supervision by trained staff and referrals for treatment.

*Assembly Amendments* (1) permit the City of Los Angeles to approve entities to establish OPPs; (2) extend the sunset date of this bill to January 1, 2028; (3) require all local jurisdictions that choose to establish OPPs to confer and choose a single independent entity to conduct a peer-reviewed study of OPPs, including the statewide efficacy of OPPs and community impacts of the OPPs, as specified; and, (4) require the study to be submitted to the Legislature and the Governor on or before January 15, 2027.

**ANALYSIS:**

Existing law:

- 1) 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]
- 2) 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]
- 3) 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]
- 4) 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), the City of Los Angeles (LA), and the City of Oakland to approve entities within their jurisdictions to establish and operate OPPs that satisfy specified requirements. Requires SF, LAC, LA, 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) Requires all local jurisdictions that choose to participate and establish OPPs to confer and choose a single independent entity to conduct a peer-reviewed study of OPPs that includes:
  - a) The statewide efficacy of OPPs, including, but not limited to, the number of participants, aggregate information regarding characteristics of the participants, overdoses onsite, reversals onsite, participants referred to treatment, hospitalizations after being seen at a program site, fatalities in hospitals after being seen at a program site, and fatalities onsite; and,
  - b) Community impacts of OPPs, 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.
- 5) Requires the independent entity conducting the study to be either a private, nonprofit, nonpartisan research organization, or a research university in the United States classified as a Research University in the Carnegie Classification of Institutes of Higher Learning. Requires the participating jurisdictions and the selected entity to fund the study through private donations, grants, and local funds. Require a local jurisdiction, prior to opting in to the OPP pilot program, to consent to funding the component of the study relating to its jurisdiction and program. Requires the study to be submitted to the Legislature and the Governor's office on or before January 15, 2027.
- 6) 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.
- 7) 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.

8) Sunsets the provisions in this bill on January 1, 2028.

### **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 6/30/22)

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  
Alcohol Justice

American Academy of HIV Medicine California/Hawaii Chapter  
Any Positive Change  
APLA Health  
Asian American Drug Abuse Program, Inc.  
Asian and Pacific Islander Wellness Center  
Being Alive - LA  
Bend the Arc: Jewish Action California  
Bienestar Human Services  
CA Bridge  
California Association of Social Rehabilitation Agencies  
California Consortium of Addiction Programs and Professionals  
California Hepatitis Alliance  
California Public Defenders Association  
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  
Community Forward SF  
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  
End the Epidemics  
Friends Committee on Legislation of California  
Getting to Zero San Francisco  
GLIDE  
Gubbio Project  
Happier Life Project  
Harm Reduction Coalition  
Harm Reduction Coalition of Santa Cruz County  
Harm Reduction Services  
HIV Education and Prevention Project of Alameda County  
HIVE  
Homeless Healthcare 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  
London Breed, Mayor of San Francisco  
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  
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 Affiliated of California  
Psychiatric Physicians Alliance of California  
R Street Institute  
Rafiki Coalition for Health & Wellness  
Safer Alternatives Thru Networking and Education  
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  
Sidewalk Project  
Sierra Harm Reduction Coalition

Smart Justice California  
St. James Infirmary  
Team Lily  
Tenderloin Neighborhood Development Corporation  
Three Individuals  
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

**OPPOSITION:** (Verified 6/30/22)

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  
International Faith Based Coalition  
Keep California Safe  
Peace Officers' Research Association of California  
Riverside Sheriffs' Association  
San Marcos Prevention Coalition  
Thaddeus Stevens Society  
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.

ASSEMBLY FLOOR: 42-29, 6/30/22

AYES: Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Carrillo, Daly, Mike Fong, Friedman, Cristina Garcia, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McKinnor, Medina, Mullin, Nazarian, O'Donnell, Quirk, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NOES: Bigelow, Chen, Choi, Cooley, Cooper, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Irwin, Kiley, Lackey, Maienschein, Mathis, Nguyen, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Rodriguez, Salas, Seyarto, Smith, Valladares, Villapudua, Voepel, Waldron

NO VOTE RECORDED: Arambula, Calderon, Cervantes, Cunningham, Gabriel, Eduardo Garcia, Gipson, McCarty, Muratsuchi

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111  
7/28/22 10:33:03

\*\*\*\* END \*\*\*\*