

BILL ANALYSIS

C.S.H.B. 65
By: McClendon
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that Texas could be on the forefront of medical policy, fiscal soundness, and faith-based initiatives by making prevention of infectious and communicable diseases a serious priority. The parties emphasize that the establishment of safe needle exchange outreach programs would encourage treatment and rehabilitation, help reduce the state's healthcare costs, and prevent the spread of disease, which is crucial for public health. The parties point to recent Department of State Health Services reports indicating that large numbers of HIV and hepatitis C cases were caused by intravenous drug use, which highlights the parties' concerns about the millions of dollars in health care costs associated with these preventable diseases and related symptoms. As these parties note, while it is never the intention of the legislature to condone or enable drug use, it is imperative that citizens who struggle with addiction or blood-borne diseases receive both education and treatment.

According to the concerned parties, safe needle exchange outreach programs facilitate the safe disposal of used needles that endanger the public when left in restrooms, parking lots, and other public places and also facilitate the recovery and improved health of participants by offering hope and help to those who often have no access to health care resources. C.S.H.B. 65 seeks to address these issues with the primary goals of preventing infection and saving lives.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 65 amends the Health and Safety Code to authorize Bexar, Dallas, El Paso, Harris, Nueces, Travis, and Webb Counties or a hospital district in those counties to authorize an organization to establish a disease control pilot program to prevent the spread of HIV, hepatitis B, hepatitis C, and other infectious and communicable diseases. The bill authorizes the pilot program to include disease control outreach programs that provide for the anonymous exchange of used hypodermic needles and syringes for an equal number of new hypodermic needles and syringes; offer education on the transmission and prevention of communicable diseases; and assist program participants in obtaining health care and other physical and mental health-related services, including substance abuse treatment services and blood-borne disease testing.

C.S.H.B. 65 authorizes a county or hospital district, as part of the pilot program, by order or similar measure to authorize an organization to register with the county or hospital district to

distribute hypodermic needles and syringes for the purpose of controlling the spread of certain blood-borne communicable diseases. The bill authorizes the county or hospital district to charge a reasonable fee for registration to pay for oversight functions, including coordination with law enforcement personnel. The bill authorizes an organization operating a disease control pilot program to charge a program participant a fee for each hypodermic needle or syringe used in the program and caps the fee at 150 percent of the actual cost of the hypodermic needle or syringe. The bill requires an organization operating a disease control pilot program to annually provide the Department of State Health Services and the county or hospital district authorizing the program with information on the effectiveness of the program, the program's impact on reducing the spread of communicable diseases, and the program's effect on injected drug use in the area served by the county or hospital district. The bill authorizes an organization, except to the extent specifically prohibited by law, to solicit or accept gifts, grants, or donations to fund a disease control pilot program.

C.S.H.B. 65 authorizes a person licensed as a wholesale drug distributor or device distributor under the Texas Food, Drug, and Cosmetic Act to distribute hypodermic needles and syringes to a disease control pilot program. The bill requires an organization operating a disease control pilot program to store hypodermic needles and syringes in a proper and secure manner and limits access to the needles and syringes to authorized program employees or volunteers. The bill authorizes inclusion of hypodermic needles and syringes in packaged safe kits made available to program clients and authorizes program clients to obtain the hypodermic needles, syringes, and safe kits only from an authorized program employee or volunteer. The bill requires an organization operating a disease control pilot program to store and dispose of used hypodermic needles and syringes in accordance with applicable state laws and administrative rules governing the safe and proper disposal of medical waste. The bill's provisions relating to the establishment and operation of disease control pilot programs expire September 1, 2025.

C.S.H.B. 65 creates exceptions to the application of the offense of possession or delivery of drug paraphernalia, other than an offense of delivery of drug paraphernalia committed by a person who is 18 years of age or older and the person receiving or intended to receive the paraphernalia is younger than 18 years of age and at least three years younger than the actor, that the person dispenses or delivers a hypodermic needle or syringe for a medical purpose, including the exchange of a hypodermic needle or syringe in a disease control pilot program; that the person manufactures hypodermic needles or syringes for delivery to a disease control pilot program; or that the person is an employee, volunteer, duly authorized agent, or participant of a disease control pilot program who uses, possesses, or delivers a hypodermic needle or syringe as part of the program.

C.S.H.B. 65 amends the Government Code to authorize the Health and Human Services Commission to provide guidance to a county and the hospital districts of Bexar, Dallas, El Paso, Harris, Nueces, Travis, and Webb Counties, rather than only to the local health authority of Bexar County, in establishing a pilot program as provided by the bill in order to prevent the spread of HIV, hepatitis B, hepatitis C, and other infections and communicable diseases.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 65 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. The legislature finds that because drug abuse has been a tragedy for many Texas families, it is imperative that individuals addicted to drugs receive education and treatment for addiction. Working with community-based and faith-based organizations creates a network of support for Texas families and the opportunity to intervene in drug addiction. Members of community-based and faith-based organizations have a strong desire to compassionately work to preserve lives and offer help to those stricken with disease and drug addiction.

Allowing for the operation of disease control pilot programs will reduce the transmission of bloodborne diseases, such as HIV/AIDS, hepatitis B, and hepatitis C, and provide clients with referrals to appropriate health and social services. A pilot program created under this Act may provide necessary access to primary health care, ensure safe and sterile disposal of used syringes and needles, and protect the public health. In addition, pilot program goals may include reduced rates of intravenous drug use and a reduced number of injuries to innocent victims, first responders, and law enforcement due to needle sticks from improperly disposed-of needles. Additionally, it is the intent of the legislature that there will be increased access to drug treatment centers, an increased likelihood of successful treatment for addiction, and increased protection of public health and safety.

SECTION 2. Section 531.0972, Government Code, is amended.

SECTION 3. Chapter 81, Health and Safety Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. PILOT PROGRAMS TO REDUCE RISK OF CERTAIN COMMUNICABLE DISEASES

Sec. 81.401. APPLICABILITY OF SUBCHAPTER.

Sec. 81.402. DISEASE CONTROL PILOT PROGRAMS. (a) A county, a hospital

HOUSE COMMITTEE SUBSTITUTE

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SECTION 2. Same as introduced version.

SECTION 3. Chapter 81, Health and Safety Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. PILOT PROGRAMS TO REDUCE RISK OF CERTAIN COMMUNICABLE DISEASES

Sec. 81.401. APPLICABILITY OF SUBCHAPTER.

Sec. 81.402. DISEASE CONTROL PILOT PROGRAMS. (a) A county or hospital

district in the county, or an organization that contracts with a county or hospital district to operate a program under this subchapter may establish a disease control pilot program to prevent the spread of HIV, hepatitis B, hepatitis C, and other infectious and communicable diseases. The program may include disease control outreach programs that:

(1) provide for the anonymous exchange of used hypodermic needles and syringes for an equal number of new hypodermic needles and syringes;

(2) offer education on the transmission and prevention of communicable diseases, including HIV, hepatitis B, and hepatitis C; and

(3) assist program participants in obtaining health care and other physical and mental health-related services, including substance abuse treatment services and bloodborne disease testing.

No equivalent provision.

(b) A county, hospital district, or other organization operating a disease control pilot program authorized by this subchapter may charge a participant in the program a fee for each hypodermic needle or syringe used in the program not to exceed 150 percent of the actual cost of the hypodermic needle or syringe.

(c) A county, hospital district, or other organization operating a disease control pilot program authorized by this subchapter shall annually provide the department with information on:

(1) the effectiveness of the program;

(2) the program's impact on reducing the spread of communicable diseases, including

district may authorize an organization to establish a disease control pilot program under this subchapter to prevent the spread of HIV, hepatitis B, hepatitis C, and other infectious and communicable diseases. The pilot program may include disease control outreach programs that:

(1) provide for the anonymous exchange of used hypodermic needles and syringes for an equal number of new hypodermic needles and syringes;

(2) offer education on the transmission and prevention of communicable diseases, including HIV, hepatitis B, and hepatitis C; and

(3) assist program participants in obtaining health care and other physical and mental health-related services, including substance abuse treatment services and bloodborne disease testing.

(b) As part of the pilot program under Subsection (a), a county or hospital district by order or similar measure may authorize an organization to register with the county or hospital district to distribute hypodermic needles and syringes for the purpose of controlling the spread of certain bloodborne communicable diseases. The county or hospital district may charge a reasonable fee for registration under this subchapter to pay for oversight functions, including coordination with law enforcement personnel.

(c) An organization operating a disease control pilot program authorized by this subchapter may charge a participant in the program a fee for each hypodermic needle or syringe used in the program not to exceed 150 percent of the actual cost of the hypodermic needle or syringe.

(d) An organization operating a disease control pilot program authorized by this subchapter shall annually provide the department and the county or hospital district authorizing the program with information on:

(1) the effectiveness of the program;

(2) the program's impact on reducing the spread of communicable diseases, including

HIV, hepatitis B, and hepatitis C; and
(3) the program's effect on injected drug use in the area served by the county or hospital district.

Sec. 81.403. DISTRIBUTION OF NEEDLES AND SYRINGES TO PILOT PROGRAM.

Sec. 81.404. HANDLING OF NEEDLES AND SYRINGES. (a) The operator of a disease control pilot program shall store hypodermic needles and syringes in a proper and secure manner. Only authorized employees or volunteers of the program may have access to the hypodermic needles and syringes. The hypodermic needles and syringes may be included in packaged safe kits made available to program clients through the program. Program clients may obtain hypodermic needles and syringes and safe kits only from an authorized employee or volunteer of the program.

(b) The operator of a disease control pilot program authorized by this subchapter shall store and dispose of used hypodermic needles and syringes in accordance with applicable state laws and administrative rules governing the safe and proper disposal of medical waste.

Sec. 81.405. FUNDING.

(a) Except to the extent specifically prohibited by law, a county or hospital district may use public money to fund a disease control pilot program under Section 81.402(a).

(b) Except to the extent specifically prohibited by law, a county or hospital district may solicit or accept gifts, grants, or donations to fund a disease control pilot program under Section 81.402(a).

Sec. 81.406. EXPIRATION.

SECTION 4. Section 481.125, Health and Safety Code, is amended.

SECTION 5. (a) The change to Section 481.125, Health and Safety Code, made by

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(b) An organization operating a disease control pilot program authorized by this subchapter shall store and dispose of used hypodermic needles and syringes in accordance with applicable state laws and administrative rules governing the safe and proper disposal of medical waste.

Sec. 81.405. FUNDING.

No equivalent provision.

Except to the extent specifically prohibited by law, an organization may solicit or accept gifts, grants, or donations to fund a disease control pilot program under Section 81.402(a).

Sec. 81.406. EXPIRATION.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2015.

SECTION 6. Same as introduced version.