

1 HB444
2 197556-1
3 By Representatives Robertson, Rafferty, McCampbell, Hall,
4 Estes and Gray
5 RFD: Health
6 First Read: 16-APR-19

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8 SYNOPSIS: This bill would establish the Alabama
9 Injection-Associated Infectious Disease Elimination
10 Act.

11 This bill would authorize the Department of
12 Public Health and local health authorities to
13 establish injection-associated infectious disease
14 elimination pilot programs in certain counties.

15 This bill would provide guidelines for
16 injection-associated infectious disease elimination
17 pilot programs.

18 This bill would also provide criminal and
19 civil immunity to certain individuals and entities
20 to facilitate and encourage participation in
21 infectious disease elimination programs.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 Relating to infectious diseases; to create the
2 Alabama Injection-Associated Infectious Disease Elimination
3 Act; to authorize the Department of Public Health or local
4 health authorities to establish injection-associated
5 infectious disease elimination pilot programs in certain
6 counties; to provide guidelines for injection-associated
7 infectious disease elimination pilot programs; and to provide
8 criminal and civil immunity to certain individuals and
9 entities to facilitate and encourage participation in
10 infectious disease elimination programs.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. This act shall be known and may be cited
13 as the Alabama Injection-Associated Infectious Disease
14 Elimination Act.

15 Section 2. The Legislature finds each of the
16 following:

17 (1) Heroin use and other injection drug use is at a
18 20-year high.

19 (2) The epidemic of opioid misuse and addiction has
20 led to increased numbers of people who inject drugs, placing
21 new populations at increased risk for human immunodeficiency
22 virus (HIV) and hepatitis C virus (HCV). Rural and nonurban
23 areas with limited HIV and HCV prevention and treatment
24 services or substance use disorder treatment services,
25 traditionally areas at low risk for HIV and HCV, have been
26 disproportionately affected.

1 (3) Sharing needles, syringes, and other injection
2 drug use equipment is a direct route of transmission for both
3 HIV and HCV, as well as some other infections. Persons of all
4 ages who do not misuse, abuse, or inject heroin, opioids, or
5 other drugs may nevertheless be exposed to and contract
6 injection-associated infectious diseases including, but not
7 limited to, HIV and HCV.

8 (4) Alabama continues to see new cases of HIV, with
9 672 newly diagnosed in 2016, bringing the total number of
10 individuals living with HIV in Alabama to at least 13,437.
11 Injection drug use accounts for at least nine percent of all
12 cases of HIV in Alabama.

13 (5) Cases of acute HCV in Alabama increased 360
14 percent in the period from 2010 to 2016, and most new cases
15 are related to injection drug use.

16 (6) There were 836 confirmed drug overdose deaths in
17 Alabama in 2017, a 44 percent increase from 2013.

18 (7) Several counties in Alabama share
19 characteristics with Scott County, Indiana, which experienced
20 a major outbreak of HIV and HCV in late 2014 and early 2015
21 directly related to injection drug use brought on by the
22 epidemic of prescription opioid misuse and abuse. Other
23 counties in Alabama may be at risk based on the number of drug
24 overdose deaths and overdose reversals by emergency
25 responders.

26 (8) The lifetime treatment cost of an individual
27 living with HIV is conservatively estimated at three hundred

1 eighty thousand dollars (\$380,000), and the average treatment
2 cost for an individual who contracts HCV is approximately
3 eighty thousand dollars (\$80,000). The estimated lifetime cost
4 of treating all the people infected in the 2014-15 Scott
5 County, Indiana, outbreak was seventy million dollars
6 (\$70,000,000).

7 (9) Injection-associated infectious diseases such as
8 HIV and HCV can also be contracted accidentally by health care
9 providers, law enforcement officers, first responders, other
10 emergency personnel, sanitation workers and other individuals,
11 including members of the general public, through needle stick
12 injuries.

13 Section 3. As used in this act, the following words
14 shall have the following meanings:

15 (1) CONTROLLED SUBSTANCE. The term as defined in
16 Section 20-2-2, Code of Alabama 1975.

17 (2) DEMONSTRATED NEED. Experiencing or at risk for a
18 significant increase in infectious disease due to factors
19 including, but not limited to, those identified by the federal
20 Centers for Disease Control and Prevention (CDC).

21 (3) INDIVIDUAL WHO INJECTS DRUGS. An individual who
22 uses a syringe or hypodermic needle to inject a controlled
23 substance into the individual's own body.

24 (4) INFECTIOUS DISEASE. A disease that may be spread
25 by intentional or unintentional needle sticks, including, but
26 not limited to, the Human Immunodeficiency Virus and the
27 Hepatitis C Virus.

1 (5) LOCAL HEALTH AUTHORITY. A county board of health
2 constituted under Section 22-3-1, Code of Alabama 1975.

3 (6) PROGRAM. An injection-associated infectious
4 disease elimination pilot program established pursuant to
5 Section 4.

6 (7) PROGRAM PARTICIPANT. An individual who injects
7 drugs and who is an active registered participant in a program
8 and who is provided an official certificate card from a
9 program.

10 Section 4. (a) The Department of Public Health or a
11 local health authority may establish and operate
12 injection-associated infectious disease elimination pilot
13 programs in counties identified to have a demonstrated need,
14 either directly or through an agreement with an outside
15 organization that promotes scientifically proven ways of
16 mitigating health risks associated with controlled substance
17 use and other high-risk behaviors. The duration of a pilot
18 program shall be no more than three years, except as provided
19 in subsection (g). The objectives of the program shall include
20 all of the following:

21 (1) Reduce the spread of the Human Immunodeficiency
22 Virus (HIV), the Hepatitis C Virus (HCV), and other
23 injection-associated infectious diseases in the state.

24 (2) Reduce the risk of infectious diseases from
25 needle stick injuries to health care providers, law
26 enforcement officers, first responders, other emergency
27 personnel, sanitation workers, and the general public.

1 (3) Encourage individuals who inject drugs to enroll
2 in evidence-based treatment for substance use disorder.

3 (b) Programs established pursuant to this section,
4 at a minimum, shall do all of the following with respect to
5 the program's operation and its participants:

6 (1) Safely dispose of used needles, hypodermic
7 syringes, and other injection supplies.

8 (2) Provide needles, hypodermic syringes, and other
9 injection supplies at no cost and in quantities sufficient to
10 reduce sharing or reuse of needles, hypodermic syringes, and
11 other injection supplies; provided, however, that state funds
12 may not be used to purchase needles, hypodermic syringes, or
13 other injection supplies.

14 (3) Provide educational materials on each of the
15 following:

16 a. Overdose prevention.

17 b. Prevention of infectious diseases.

18 c. Drug abuse prevention.

19 d. Treatment for mental illness, including treatment
20 referrals.

21 e. Treatment for substance abuse, including
22 referrals for medication assisted treatment.

23 (4) Provide access to naloxone kits that contain
24 naloxone hydrochloride, or equivalent, that is approved by the
25 federal Food and Drug Administration (FDA) for the treatment
26 of an opioid drug overdose, or referrals to programs that
27 provide access to naloxone hydrochloride, or equivalent, that

1 is approved by the FDA for the treatment of an opioid drug
2 overdose.

3 (5) For each individual requesting service under the
4 program, provide personal consultations from a program
5 employee or volunteer concerning mental health or substance
6 use disorder treatment as appropriate.

7 (6) Encourage each individual who injects drugs to
8 seek appropriate medical, mental health, or social services.

9 (7) Use a recordkeeping system that ensures the
10 identity of each individual who injects drugs remains
11 anonymous.

12 (8) Notify relevant local law enforcement agencies
13 regarding the program, including information on the limited
14 immunity from criminal liability granted by subsection (e).

15 (9) Provide an official certificate card to each
16 individual served by the program so law enforcement personnel,
17 employees, and volunteers of the program can quickly identify
18 the individual. This certificate card shall also serve as
19 proof of the limited immunity from criminal liability granted
20 by subsection (e), and shall bear relevant information
21 produced according to standards to be issued by the Department
22 of Public Health or local health authority.

23 (10) Provide emergency medical care or referrals for
24 program participants in need of immediate medical attention at
25 the time they receive services through the program.

26 (11) Comply with applicable state and federal rules
27 and regulations governing participant confidentiality.

1 (c) (1) Before a program in an incorporated area may
2 begin operating, it must receive written approval endorsed by
3 a publicly recorded vote of the incorporated area's governing
4 body, such as a city council.

5 (2) Before a program in an unincorporated area of a
6 county can begin operating, it must have received the written
7 approval, endorsed in a public, recorded vote, of the county
8 commission for that county.

9 (3) Consent by the incorporated area's local
10 governing body or the county commission shall not be required
11 if there exists a Public Health Emergency, as declared by the
12 Governor pursuant to Section 31-9-8, Code of Alabama 1975, the
13 Alabama Emergency Management Act of 1955 due to an
14 injection-associated outbreak of infectious disease or
15 overdose deaths that includes the county in which the program
16 is being established.

17 (d) (1) Before establishing a program, the following
18 interested parties in the area to be served shall be
19 consulted:

20 a. Law enforcement representatives.

21 b. Prosecutors.

22 c. Representatives of substance use disorder
23 treatment facilities certified by the Department of Mental
24 Health.

25 d. Individuals who inject drugs and individuals in
26 recovery from substance use disorder, to the extent
27 practicable.

1 e. Nonprofit organizations focused on HIV, HCV,
2 substance use disorder, and mental health, to the extent
3 practicable.

4 f. Residents of the geographical area to be served
5 by the program, to the extent practicable.

6 (2) When consulting with interested parties, the
7 program is encouraged to consider the following:

8 a. The population to be served.

9 b. Concerns of law enforcement representatives and
10 prosecutors.

11 c. Day-to-day administration of the program,
12 including security of program sites, equipment, personnel, and
13 use of volunteers.

14 (e)(1) a. An individual who injects drugs and who is
15 an active participant in a program and in possession of an
16 official program certificate card is granted immunity from and
17 shall not be subject to criminal prosecution or liability
18 under Sections 13A-12-202, 13A-12-203, 13A-12-204, 13A-12-205,
19 13A-12-212, 13A-12-260, or 13A-12-281, Code of Alabama 1975,
20 arising from possession or use of a needle, hypodermic
21 syringe, or other injection supply obtained from a program
22 established pursuant to this section, or arising from a used
23 needle or hypodermic syringe containing residual amounts of a
24 controlled substance from being returned for disposal to a
25 program established pursuant to this section.

26 b. The immunity provided in this subsection shall
27 apply to an individual who injects drugs and who is an active

1 program participant only if the individual claiming immunity
2 provides an official certificate card stating that the
3 individual is or was an active participant in a program at the
4 time the act for which immunity is sought was committed.
5 Provision of the card at any point from initial contact with a
6 law enforcement officer and throughout the judicial process,
7 shall immediately create a presumption that the person is
8 immune from criminal liability as provided in this subsection.

9 (2) In addition to any other applicable immunity
10 from civil liability, a law enforcement officer who arrests or
11 charges a person who is thereafter determined to be entitled
12 to immunity from prosecution under this subsection shall not
13 be subject to civil liability for the arrest of, or the filing
14 of charges against, the person, unless the card was provided
15 to the officer prior to the arrest or prior to charging the
16 person under circumstances where there could be no reasonable
17 doubt that the card provided was legitimate, and unless the
18 circumstances faced by the officer during the encounter
19 created no reasonable fear of risk to the safety of the
20 officer, fellow officers, the person, or other individuals
21 present at the time of the encounter, or the public at large.

22 (3) a. Any officer, employee, or agent of, or
23 volunteer for, the Department of Public Health or a local
24 health authority or a program, profit or nonprofit, including,
25 but not limited to, any licensed physician or other health
26 care provider or health care facility, participating in,
27 contributing funds or other assistance to, conducting

1 activities in conjunction with, providing consultations,
2 emergency care, referrals, education, needles, hypodermic
3 syringes, other injection supplies, or any other materials, in
4 accordance with the program shall be immune from criminal
5 prosecution and liability, as a result of participation,
6 affiliation, association, contribution, assistance, conduct,
7 consultation, or provision of emergency care, referrals,
8 education, needles, hypodermic syringes, other injection
9 supplies, or any other materials.

10 b. The immunity from criminal liability, including
11 vicarious liability, provided in this act shall also extend to
12 the members of any local health authority establishing,
13 sponsoring, operating, or administering a program. It is the
14 express intention of this act that the employees, officers and
15 agents of the state be provided immunity for personal injury,
16 damage to or loss of property, or other civil liability caused
17 or arising out of, or in relation to, an actual or alleged
18 act, error or omission that occurred in relation to or in
19 conjunction with the program in accordance with Section
20 36-1-12 of the Code of Alabama 1975. This section expressly
21 incorporates Section 36-1-12 of the Code of Alabama 1975, and
22 neither expands nor limits the protections provided under that
23 section. Nothing in this section shall be deemed to impair,
24 derogate, or otherwise limit any other immunity of any person
25 or entity under constitutional, statutory, or common law.

26 (f) Not later than one year after commencing
27 operations of a program established pursuant to this section,

1 and every 12 months thereafter, each local health authority
2 operating such a program, either directly or through agreement
3 with an outside organization, shall report the following
4 information to the Department of Public Health:

5 (1) The number of individuals served by the program.

6 (2) The number of needles, hypodermic syringes, and
7 other injection supplies dispensed by the program, and a
8 weight-based estimate of those returned to the program.

9 (3) The number of naloxone kits, or equivalent,
10 distributed by the program or the number of referrals made to
11 programs that provide access to naloxone kits, or equivalent.

12 (4) The number and type of substance abuse treatment
13 referrals, including referrals for medication assisted
14 treatment, provided for individuals served by the program.

15 (5) The number and type of medical, mental health,
16 and social services referrals provided to individuals served
17 by the program.

18 (g) Program operations may extend beyond an initial
19 three-year pilot stage if the Department of Public Health or
20 local health authority determines there to be continued
21 demonstrated need.

22 (h) Nothing in this act shall be construed to
23 establish a standard of care for physicians or otherwise
24 modify, amend, or supersede any provision of the Alabama
25 Medical Liability Act of 1987 or the Alabama Medical Liability
26 Act of 1996, commencing with Section 6-5-540, et seq., Code of

1 Alabama 1975, or any amendment thereto, or any judicial
2 interpretation thereof.

3 Section 5. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.