

1 HB384
2 204804-3
3 By Representatives Rafferty, Robertson, Estes and Hall
4 RFD: Health
5 First Read: 03-MAR-20

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

11 This bill would authorize a local health
12 authority within the most populous county in the
13 state according to the most recent decennial census
14 to establish injection-associated infectious
15 disease elimination pilot programs in that county.

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

19 This bill would also provide criminal and
20 civil immunity to certain individuals and entities
21 participating in infectious disease elimination
22 programs.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to infectious diseases; to create the
2 Alabama Injection-Associated Infectious Disease Elimination
3 Act; to authorize a local health authority within the most
4 populous county in the state according to the most recent
5 decennial census to establish injection-associated infectious
6 disease elimination pilot programs; to provide guidelines for
7 injection-associated infectious disease elimination pilot
8 programs; and to provide criminal and civil immunity to
9 certain individuals and entities.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 Section 2. For the purposes of this act, the
15 following words have the following meanings:

16 (1) CONTROLLED SUBSTANCE. As defined in Section
17 20-2-2, Code of Alabama 1975.

18 (2) INDIVIDUAL WHO INJECTS DRUGS. An individual who
19 uses a syringe or hypodermic needle to inject a controlled
20 substance into his or her own body.

21 (3) INFECTIOUS DISEASE. A disease that may be spread
22 by intentional or unintentional needle sticks, including, but
23 not limited to, the Human Immunodeficiency Virus (HIV) and the
24 Hepatitis C Virus (HCV).

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

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

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

8 Section 3. (a) A local health authority within the
9 most populous county in the state according to the most recent
10 decennial census may establish and operate
11 injection-associated infectious disease elimination pilot
12 programs in that county, either directly or through an
13 agreement with another organization, that promotes
14 scientifically proven ways of mitigating health risks
15 associated with controlled substance use and other high-risk
16 behaviors. The duration of a pilot program shall be no more
17 than five years. The objectives of the program include all of
18 the following:

19 (1) Reduce the spread of the (HIV), (HCV), and other
20 injection-associated infectious diseases.

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

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

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

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

6 (2) Provide needles, hypodermic syringes, and other
7 injection supplies at no cost and in quantities sufficient to
8 reduce sharing or reuse of needles, hypodermic syringes, and
9 other injection supplies. Funds appropriated by the
10 Legislature as part of the annual budget process may not be
11 used to purchase needles, hypodermic syringes, or other
12 injection supplies.

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

15 a. Overdose prevention.

16 b. Prevention of infectious diseases.

17 c. Drug abuse prevention.

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

20 e. Treatment for substance abuse disorder, including
21 referrals for medication-assisted treatment.

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

1 (5) For each individual requesting service under the
2 program, provide personal consultations concerning substance
3 use disorder treatment as appropriate, either directly or
4 through a partner organization.

5 (6) Offer each individual who injects drugs, either
6 directly or by referral, appropriate screening and treatment
7 for infectious diseases.

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

11 (8) Use a recordkeeping system that ensures the
12 identity of each individual who injects drugs remains
13 anonymous.

14 (9) Notify relevant local law enforcement agencies
15 regarding the program, including information on the limited
16 immunity from criminal liability granted by subsection (d).

17 (10) Provide an official certificate card to each
18 individual served by the program so law enforcement personnel,
19 employees, and volunteers of the program can quickly identify
20 the individual. This certificate card shall also serve as
21 proof of the limited immunity from criminal liability granted
22 by subsection (d), and shall bear relevant information
23 produced according to standards to be issued by the local
24 health authority within the most populous county in the state
25 according to the most recent decennial census.

1 (11) Provide emergency medical care or referrals for
2 program participants in need of immediate medical attention at
3 the time they receive services through the program.

4 (12) Comply with applicable state and federal rules
5 and regulations governing participant confidentiality.

6 (c) (1) Before establishing a program, the following
7 interested parties in the area to be served shall be
8 consulted:

9 a. Local government officials.

10 b. Law enforcement representatives.

11 c. Prosecutors.

12 d. Representatives of substance use disorder
13 treatment facilities certified by the Department of Mental
14 Health.

15 e. Individuals who inject drugs and individuals in
16 recovery from substance use disorder, to the extent
17 practicable.

18 f. Nonprofit organizations focused on HIV, HCV,
19 substance use disorders, and mental health, to the extent
20 practicable.

21 g. Residents of the geographical area to be served
22 by the program, to the extent practicable.

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

25 a. The population to be served.

26 b. Concerns of law enforcement representatives and
27 prosecutors.

1 c. Day-to-day administration of the program,
2 including security of program sites, equipment, personnel, and
3 use of volunteers.

4 (d)(1) a. An individual who injects drugs and who is
5 an active participant in a program and in possession of an
6 official program certificate card has immunity from and is not
7 subject to criminal prosecution or liability under Sections
8 13A-12-202, 13A-12-203, 13A-12-204, 13A-12-205, 13A-12-212,
9 13A-12-260, or 13A-12-281, Code of Alabama 1975, in relation
10 to the possession or use of a needle, hypodermic syringe, or
11 other injection supply obtained from a program established
12 pursuant to this section, or in relation to the return for
13 disposal of a used needle or hypodermic syringe containing
14 residual amounts of a controlled substance to a program
15 established pursuant to this section.

16 b. The immunity provided in this subsection applies
17 to an individual who injects drugs and who is an active
18 program participant only if the individual claiming immunity
19 provides an official certificate card stating that the
20 individual is or was an active participant in a program at the
21 time the act for which immunity is sought was committed.
22 Provision of the card at any point from initial contact with a
23 law enforcement officer and throughout the judicial process
24 shall entitle the individual to a presumption that the
25 individual is immune from criminal liability as provided in
26 this subsection.

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

15 (3) All of the following are immune from criminal
16 prosecution as a result of participation, affiliation,
17 association, contribution, assistance, conduct, consultation,
18 or provision of emergency care, referrals, education, needles,
19 hypodermic syringes, other injection supplies, or any other
20 related materials:

21 a. An officer, employee, agent of, or volunteer for,
22 a local health authority within the most populous county in
23 the state according to the most recent decennial census.

24 b. A program, profit or nonprofit, including, but
25 not limited to, any licensed physician or other health care
26 provider or health care facility that participates in,
27 contributes funds to, provides assistance to, or conducts

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.

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

21 (e) Not later than one year after commencing
22 operations of a program established pursuant to this section,
23 and every 12 months thereafter, a local health authority
24 within the most populous county in the state according to the
25 most recent decennial census operating such a program, either
26 directly or through agreement with an outside organization,
27 shall compile a report including all of the following

1 information and forward that report to the Senate Healthcare
2 Committee and the House Health Committee:

3 (1) The number of individuals served by the
4 programs.

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

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

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

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

17 (f) Nothing in this act shall be construed to
18 establish a standard of care for physicians or otherwise
19 modify, amend, or supersede any provision of the Alabama
20 Medical Liability Act of 1987 or the Alabama Medical Liability
21 Act of 1996, commencing with Section 6-5-540, et seq., Code of
22 Alabama 1975, or any amendment thereto, or any judicial
23 interpretation thereof.

24 Section 4. (a) The State Board of Health shall adopt
25 rules concerning the operation of programs pursuant to this
26 act, including, but not limited to, all of the following:

27 (1) Counseling.

1 (2) Referrals of program participants.

2 (3) Dispensing of needles.

3 (b) A physician shall not be liable, vicariously or
4 otherwise, when he or she is in compliance with this act and
5 the rules adopted by the State Board of Health pursuant to
6 this act.

7 Section 5. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.