

## **BILL ANALYSIS**

C.S.S.B. 188  
By: Deuell  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Many states have syringe exchange programs, but such programs are not currently authorized under Texas law.

These programs have the potential to significantly reduce the spread of dangerous diseases, not only among drug addicts, but also among innocent victims, including the spouses of intravenous drug users, as well as first responders and law enforcement personnel who may come into contact with infected needles in the performance of their duties.

In addition, an important element of the program is to provide outreach services, including counseling, education on the transmission and prevention of communicable diseases, and substance abuse treatment, with the goal of reducing the rate of intravenous drug use and the number of innocent victims who become infected.

C.S.S.B. 188 provides for the establishment of a disease control outreach program in certain counties.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill.

### **ANALYSIS**

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practicable, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.S.B. 188 amends the Health and Safety Code to authorize a local health authority or an organization that contracts with a county, municipality, hospital district, or other local governmental entity charged with protecting the public health to establish a disease control outreach program that: assists outreach program participants in obtaining health care and other physical and mental health-related services, including substance abuse treatment services and blood-borne disease testing; offers education on the transmission and prevention of communicable diseases, including hepatitis C, hepatitis B, and HIV; and provides for the anonymous exchange of used hypodermic needles and syringes for an equal number of new hypodermic needles and syringes. The bill authorizes a local health authority or other organization operating such a disease control outreach program to charge a program participant a

fee for each hypodermic needle or syringe used in the outreach program not to exceed more than 150 percent of the actual cost of the needle or syringe.

C.S.S.B. 188 requires a local health authority or other authorized organization operating a disease control outreach program annually to provide the Department of State Health Services (DSHS) with information on: the effectiveness of the disease control outreach program, including the number of clients served by the program and the methods of distribution; the program's impact on reducing the spread of communicable diseases, including the number of syringes collected and the number of syringes disposed of through the program, the number of referrals for testing for communicable diseases made by the program, and a list of the facilities to which individuals are referred by the program to receive this testing; the program's effect on injected drug use in the area served by the local health authority, including the number of referrals for substance abuse treatment made by the program, a list of facilities to which individuals are referred by the program to receive substance abuse treatment; and other information specified by DSHS.

C.S.S.B. 188 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 participating disease control outreach program. The bill requires an operator of a disease control outreach program to store hypodermic needles and syringes in a proper and secure manner. The bill limits access to the hypodermic needles and syringes to only authorized employees or volunteers of the disease control outreach program. The bill authorizes an outreach program client to obtain hypodermic needles and syringes only from an authorized employee or volunteer. The bill requires the operator of a disease control outreach program to store and dispose of used hypodermic needles and syringes in accordance with Department of State Health Services rule.

C.S.S.B. 188 provides a defense to prosecution for behavior that constitutes an offense under the offense of possession or delivery of drug paraphernalia that a person manufactures hypodermic needles or syringes that are delivered or are to be delivered through an authorized disease control outreach program or that the person uses, possesses, or delivers hypodermic needles or syringes that are delivered or are to be delivered through an authorized disease control outreach program and presents evidence showing that the person is an employee, volunteer, or participant of the disease control outreach program.

C.S.S.B. 188 makes its provisions relating to the establishment of disease control outreach programs applicable only to a county with a population of 300,000 or more. The bill provides legislative findings and intent relating to disease control outreach programs.

#### **EFFECTIVE DATE**

September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.S.B. 188 differs from the original by referring to disease control outreach programs rather than disease control programs. The substitute differs from the original by specifying that a disease control outreach program assists outreach program participants in obtaining health care and other physical and mental health-related services, rather than obtaining health-related services as in the original.

C.S.S.B. 188 differs from the original by specifying in greater detail the information required to be submitted to DSHS by a local health authority or other organization operating a disease control outreach program 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 local health authority. The substitute differs from the original by detailing

legislative findings and intent, rather than stating the bill's purpose.

C.S.S.B. 188 adds a provision not included in the original that limits application of provisions relating to disease control outreach programs only to a county with a population of 300,000 or more.