86R19438 KKR-F

By:  Coleman, Wu H.B. No. 1722

Substitute the following for H.B. No. 1722:

By:  Dominguez C.S.H.B. No. 1722

A BILL TO BE ENTITLED

AN ACT

relating to the establishment by certain counties and municipalities of disease control programs to reduce the risk of certain infectious and communicable diseases; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 531.0972, Government Code, is amended to read as follows:

Sec. 531.0972.  [~~PILOT~~] PROGRAM TO PREVENT [~~THE~~] SPREAD OF CERTAIN INFECTIOUS OR COMMUNICABLE DISEASES. The Department of State Health Services shall [~~commission may~~] provide guidance to the counties and municipalities that establish [~~local health authority of Bexar County in establishing~~] a [~~pilot~~] program under Subchapter K, Chapter 81, Health and Safety Code, [~~funded by the county~~] to prevent the spread of HIV, hepatitis B, hepatitis C, and other infectious and communicable diseases. The program may include a disease control program that provides for the anonymous exchange of used hypodermic needles and syringes.

SECTION 2.  Chapter 81, Health and Safety Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. PROGRAM TO REDUCE RISK OF CERTAIN COMMUNICABLE DISEASES

Sec. 81.501.  DEFINITIONS. In this subchapter:

(1)  "Organization" means an entity authorized by a county or municipality to operate a program under this subchapter.

(2)  "Program" means a program established under this subchapter to control through needle exchange the spread of HIV, hepatitis B, hepatitis C, or other infectious and communicable diseases.

Sec. 81.502.  AUTHORITY TO ESTABLISH PROGRAM. (a) An organization may operate a program in a county or municipality in which a public health emergency described by Subsection (b) is declared by the commissioner.

(b)  The commissioner may declare a public health emergency in a county or municipality if a county or municipality demonstrates that:

(1)  HIV, hepatitis B, hepatitis C, or other infectious and communicable diseases exist in the county or municipality;

(2)  a cause of the transmission of HIV, hepatitis B, hepatitis C, or other infectious and communicable diseases is intravenous drug use; and

(3)  a needle exchange program is an appropriate component of a comprehensive response to the emergency.

(c)  To request the department declare a public health emergency, the commissioners court of a county or the governing body of a municipality shall:

(1)  conduct a public hearing and allow public testimony on HIV, hepatitis B, hepatitis C, or other infectious and communicable diseases in the county or municipality;

(2)  issue an order requesting the department to declare a public health emergency in the county or municipality with facts supporting the declaration; and

(3)  submit to the department an official request and supporting evidence for the department to declare a public health emergency in the county or municipality.

(d)  On receipt of a request by a county or municipality to declare a public health emergency under this subchapter, the commissioner shall:

(1)  approve, deny, or request additional information from the county or municipality concerning the request not later than the 10th day after the date the request is received by the department; or

(2)  if additional information is requested by the department, approve or deny a request not later than the 10th day after the additional information is received.

(e)  A public health emergency declared under this section remains in effect until the first anniversary of the date the emergency is declared.

(f)  The commissioner may extend a declaration of a public health emergency at the request of the county or municipality that is the subject of the declaration.

Sec. 81.503.  REGISTRATION REQUIRED. An organization shall register with the department and the county or municipality in which the organization is applying to operate a program to distribute hypodermic needles and syringes for the purpose of controlling the spread of HIV, hepatitis B, hepatitis C, or other infectious and communicable diseases. The department, county, or municipality may charge a reasonable fee for registration under this subchapter to pay for oversight functions, including coordination with law enforcement personnel.

Sec. 81.504.  PROGRAM OPERATION. A qualified organization that is registered to provide a program in a county or municipality shall:

(1)  operate the program in a manner consistent with public health and safety and under the supervision of a physician, physician assistant, or nurse licensed to practice in this state;

(2)  ensure the program is appropriate and part of a comprehensive public health response;

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

(4)  provide:

(A)  education and training on responding to and treating a drug overdose, including the administration of an overdose intervention drug;

(B)  information on options for drug rehabilitation treatment; and

(C)  assistance to program participants with obtaining drug rehabilitation treatment, including treatment programs located in the county or municipality in which the program operates and treatment programs that offer medication-assisted treatment using a medication that is:

(i)  approved by the United States Food and Drug Administration for use in opioid or alcohol dependence treatment; and

(ii)  long-acting and nonaddictive.

Sec. 81.505.  DISTRIBUTION OF NEEDLES AND SYRINGES TO PROGRAM. A person licensed as a wholesale drug distributor or device distributor under Chapter 431 may distribute hypodermic needles and syringes to a program authorized by this subchapter.

Sec. 81.506.  HANDLING OF NEEDLES AND SYRINGES. (a) An organization operating a program authorized by this subchapter 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)  An organization operating a 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. 81.507.  REQUIRED REPORTING BY ORGANIZATION. (a) An organization operating a program under this subchapter shall submit to the department a quarterly report that provides:

(1)  the number of individuals served by the organization each day;

(2)  the number of hypodermic needles and syringes collected by the organization each day;

(3)  the number of hypodermic needles and syringes distributed by the organization each day; and

(4)  other information the department determines necessary.

(b)  The information required under Subsection (a) must include the zip code of each location where the program distributed or collected hypodermic needles and syringes.

Sec. 81.508.  REVOCATION. If an organization fails to comply with the requirements of this subchapter, the commissioners court of the county or the governing body of the municipality in which the organization is operating or the department may revoke the organization's registration and authorization to operate a program.

Sec. 81.509.  USE OF STATE FUNDS. State funds may not be used to purchase hypodermic needles or syringes under this subchapter.

Sec. 81.510.  DEPARTMENT REPORT. The department shall annually submit to the legislature a report on:

(1)  the effectiveness of the program;

(2)  the program's impact on reducing the spread of HIV, hepatitis B, hepatitis C, and other infectious and communicable diseases; and

(3)  the program's effect on intravenous drug use in the area served by the county or municipality.

SECTION 3.  Section 481.125, Health and Safety Code, is amended by adding Subsections (g), (h), (i), and (j) to read as follows:

(g)  Subsections (a) and (b) do not apply to a person who dispenses or delivers a hypodermic needle or syringe for a medical purpose. For the purposes of this subsection, "medical purpose" includes the exchange of a hypodermic needle or syringe for a used hypodermic needle or syringe in a program described by Subchapter K, Chapter 81.

(h)  Subsections (a) and (b) do not apply to a person who manufactures hypodermic needles or syringes for delivery to a program described by Subchapter K, Chapter 81.

(i)  Subsections (a) and (b) do not apply to a person who is an employee, volunteer, duly authorized agent, or participant of a program described by Subchapter K, Chapter 81, and uses, possesses, or delivers a hypodermic needle or syringe as part of the program.

(j)  A peace officer may not stop, search, or seize a person or base probable cause solely because the person visits an organization operating under Subchapter K, Chapter 81.

SECTION 4.  The change to Section 481.125, Health and Safety Code, made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

SECTION 5.  This Act takes effect September 1, 2019.