

By: Rodríguez

S.B. No. 2205

A BILL TO BE ENTITLED

1 AN ACT
2 relating to programs established to eliminate injection-associated
3 infectious diseases; providing certain civil and criminal
4 immunity.

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

6 SECTION 1. This Act shall be known as the Texas
7 Injection-Associated Infectious Disease Elimination (IDEA) Act.

8 SECTION 2. (a) In this section, "HIV" means human
9 immunodeficiency virus.

10 (b) The legislature finds that:

11 (1) persons of all ages who do not misuse, abuse, or
12 inject heroin, opioids, or other drugs may nevertheless be exposed
13 to and contract injection-associated infectious diseases,
14 including HIV and the hepatitis C virus;

15 (2) heroin drug use is at a 20-year high and in the
16 last 10 years its use has more than doubled in young adults aged 18
17 to 25;

18 (3) prescription opioid misuse and abuse has led to
19 increased numbers of people who inject drugs, increasing the risk
20 of HIV to new populations;

21 (4) rural and nonurban areas with limited HIV and
22 hepatitis C virus prevention and treatment services and substance
23 use disorder treatment services, traditionally areas at low risk
24 for HIV and hepatitis C virus, have been disproportionately

1 affected;

2 (5) Texas had 4,364 newly diagnosed cases of HIV in
3 2017, bringing the total living with HIV in Texas to 90,700;
4 infection from injection drug use accounts for 8.5 percent of all
5 cases of HIV in Texas;

6 (6) cases of acute hepatitis C virus in Texas
7 increased by 100 percent in the period from 2009 to 2013, and 60
8 percent of those cases were attributable to injection drug use;

9 (7) drug overdose deaths in Texas increased by 274
10 percent from 1999 to 2017, with a likelihood that many deaths were
11 underreported due to a lack of training and resources in rural and
12 nonurban areas;

13 (8) the lifetime treatment cost of an HIV patient is
14 conservatively estimated at \$380,000;

15 (9) the current cost to effectively treat hepatitis C
16 virus is up to \$95,000; and

17 (10) injection-associated infectious diseases such as
18 HIV and the hepatitis C virus can also be contracted accidentally by
19 health care providers, law enforcement officers, first responders,
20 other emergency personnel, and members of the general public
21 through a needlestick or other sharps injury or exposure to blood or
22 bodily fluids.

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

25 SUBCHAPTER K. ELIMINATION OF INJECTION-ASSOCIATED DISEASES

26 Sec. 81.501. DEFINITIONS. In this subchapter:

27 (1) "Controlled substance" has the meaning assigned by

1 Section 481.002.

2 (2) "HIV" means human immunodeficiency virus.

3 (3) "Individual who injects drugs" means an individual
4 who uses a syringe or hypodermic needle to inject a controlled
5 substance into the individual's own body.

6 (4) "Infectious disease" means disease that may be
7 spread by intentional or unintentional needlesticks, including HIV
8 and the hepatitis C virus.

9 (5) "Local health unit" has the meaning assigned by
10 Section 121.004.

11 (6) "Program" means an injection-associated
12 infectious disease elimination program established under this
13 subchapter.

14 Sec. 81.502. INJECTION-ASSOCIATED INFECTIOUS DISEASE
15 PROGRAMS. (a) The department or a local health unit, in
16 conjunction with an organization that promotes scientifically
17 proven ways of mitigating risks associated with the use of
18 controlled substances, may establish and operate an
19 injection-associated infectious disease elimination program.

20 (b) The mission of a program is to:

21 (1) reduce the spread of HIV, the hepatitis C virus,
22 and other injection-associated infectious diseases;

23 (2) reduce needlestick injuries to health care
24 providers, law enforcement officers, first responders, other
25 emergency personnel, and the general public; and

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

1 (c) A program established under this subchapter must do the
2 following:

3 (1) safely dispose of used needles, hypodermic
4 syringes, and other injection supplies;

5 (2) provide needles, hypodermic syringes, and other
6 injection supplies at no cost and in quantities sufficient to
7 discourage the sharing or use of needles, hypodermic syringes, or
8 other injection supplies;

9 (3) provide educational materials on the following
10 subjects:

11 (A) overdose prevention and response;

12 (B) prevention of infectious diseases;

13 (C) drug abuse prevention; and

14 (D) treatment for mental illness or substance
15 abuse, including providing treatment referrals;

16 (4) provide access to kits that contain naloxone
17 hydrochloride, or a chemical equivalent that is approved by the
18 federal Food and Drug Administration, for the treatment of a drug
19 overdose or provide referrals to programs that provide access to
20 such medications;

21 (5) provide personal consultations for individuals
22 seeking assistance by a program employee or volunteer concerning
23 mental health or substance use disorder treatment, as appropriate;

24 (6) encourage each individual who injects drugs to
25 seek appropriate medical, mental health, or social services;

26 (7) use a record keeping system that ensures that the
27 identity of each individual who injects drugs remains anonymous;

1 (8) notify appropriate local law enforcement agencies
2 about the program, including information on the limited immunity
3 from criminal liability granted by Section 81.504;

4 (9) provide an identification card to each individual
5 served by the program identifying them as a participant of the
6 program, which shall serve as proof of the limited immunity from
7 criminal liability granted under Section 81.504;

8 (10) provide emergency medical care or referrals to
9 program participants in need of immediate medical attention; and

10 (11) comply with applicable state and federal rules
11 and regulations governing participant confidentiality.

12 Sec. 81.503. NOTIFICATION OF PROGRAM. (a) Before a
13 program may be established, notification must be provided to the
14 following interested parties in the area to be served by the
15 program:

16 (1) local law enforcement agencies;

17 (2) local prosecutors;

18 (3) representatives of substance use disorder
19 treatment facilities certified by the department;

20 (4) individuals who inject drugs and individuals in
21 recovery from substance use disorder;

22 (5) nonprofit organizations whose primary purpose is
23 education on or mitigation of HIV, the hepatitis C virus, substance
24 use disorder, or mental health; and

25 (6) residents of the geographical area to be served by
26 the program.

27 (b) When consulting with interested parties, the program is

1 encouraged to consider:

2 (1) the population to be served;

3 (2) the concerns of local law enforcement agencies and
4 prosecutors; and

5 (3) the day-to-day administration of the program,
6 including the need for security of program sites, equipment,
7 personnel, and volunteers.

8 Sec. 81.504. LIMITED IMMUNITY. (a) An individual who
9 injects drugs and who is an active participant in a program is
10 granted limited immunity from and shall not be subject to criminal
11 liability under Subchapter D, Chapter 481. The limited immunity
12 provided in this section applies to an individual who injects drugs
13 and who is an active program participant only if:

14 (1) the individual claiming immunity possesses the
15 program identification card provided in accordance with Section
16 81.502(c)(9); or

17 (2) program personnel can otherwise confirm an
18 individual's participant status in response to charges related to
19 or resulting from their participation in the program.

20 (b) The limited immunity in Subsection (a) shall apply to a
21 needle, hypodermic syringe, or other injection supply obtained
22 from, or to a used needle or hypodermic syringe containing residual
23 amounts of a controlled substance being returned for disposal to, a
24 program established under this subchapter.

25 (c) In addition to any other applicable immunity from civil
26 liability, a law enforcement officer who arrests or charges a
27 person who is later determined to be entitled to immunity from

1 prosecution under Subsection (a) is not subject to civil liability
2 for the arrest or filing of charges against the person.

3 (d) Any person or entity contributing funds or providing
4 assistance, consultations, emergency care, referrals, needles,
5 hypodermic syringes, or other injection supplies, or any other
6 materials or service, including providing educational materials or
7 naloxone kits, for the benefit of the program shall be immune from
8 civil and criminal liability as a result of such participation with
9 or contributions to the program.

10 (e) The limited immunity, including limited vicarious
11 liability, provided in this section shall also extend to the
12 members of any local health unit establishing, sponsoring,
13 operating, or administering a program. Immunity under this section
14 shall be provided to and for any employees, officers, agents of the
15 state, persons, and entities described in this subchapter for
16 personal injury, damage to or loss of property, or other civil
17 liability caused by or arising out of, or relating to, an actual or
18 alleged act, error, or omission that occurred, or that the
19 employee, officer, agent of the state, person, or entity had a
20 reasonable basis for believing occurred, in relation to or in
21 conjunction with the program.

22 (f) Nothing in this section shall impair or otherwise limit
23 any other immunity of any person or entity under constitutional,
24 statutory, or common law.

25 Sec. 81.505. REPORT. Not later than December 1 of each year
26 that a program exists, each local health unit sponsoring,
27 operating, or administering a program shall report the following to

1 the department:

2 (1) the number of individuals served by the program;

3 (2) the number of needles, hypodermic syringes, and
4 other injection supplies dispensed by and returned to the program;

5 (3) the number of naloxone kits distributed by the
6 program;

7 (4) the number of service referrals provided to
8 individuals served by the program, by type of treatment, including
9 a separate report on the number of individuals referred to programs
10 that provide access to naloxone hydrochloride, or a chemical
11 equivalent that is approved by the federal Food and Drug
12 Administration, for the treatment of an overdose; and

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

16 SECTION 4. This Act takes effect September 1, 2019.