

ACT 280

H.B. NO. 2044

A Bill for an Act Relating to a Pilot Program to Reduce the Transmission of Infectious and Communicable Diseases.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The purpose of this Act is to establish as a two-year pilot program a sterile needle and syringe exchange program to combat the spread of infectious and communicable diseases. The legislature finds that there is a growing public health problem in the State due to the rapid spread of AIDS and HIV infection through needle sharing among intravenous drug users. The majority of new AIDS cases in Hawaii during the last half of 1989 have been in this population, their partners, and their children. In Hawaii the HIV infection rate among the intravenous drug-using population is currently over ten per cent. Almost all the infants born HIV positive have at least one intravenous drug-using parent. These children, who are infected in utero, live an average of only two to three years. Their medical costs average at least \$100,000 over their brief lifespan and they are often orphaned or abandoned.

The department of health estimates that there are three thousand to fifteen thousand intravenous drug users in the State and that ninety-five per cent

of these are not receiving treatment. The average waiting time for state-funded treatment is thirty-two to thirty-six weeks. While prevention and education remain the most desirable and cost-effective approaches to substance abuse, once a person is addicted, rapid and effective treatment options must be made available. Preventing HIV infection is a high priority since every symptomatic case costs a minimum of \$50,000 to \$60,000 to treat. A well-designed sterile needle and syringe exchange program has been proven to be effective in preventing transmission of the virus. Data from studies in other states and abroad demonstrate that needle exchange programs apparently do not increase drug use and do not attract new users; rather, they result in a significant increase in requests for drug treatment, an increase in requests for HIV testing and counseling, and constitute effective outreach to hard-core, normally inaccessible users.

Public health officials believe that the relatively low rate of HIV infection among IV drug users in Hawaii as compared to fifty to sixty per cent in some east coast cities, makes this an ideal time to establish a sterile needle and syringe exchange program in Hawaii. Providing treatment to reduce drug injection and providing means for safer injection are complementary rather than contradictory forms of both AIDS prevention and drug abuse prevention. Such programs should be regarded as just one weapon in the first fight against AIDS in a population which is both at very high risk and traditionally hard to reach. The key educational message of such a program is that needle sharing carries with it the likelihood of contracting AIDS and of infecting one's partner or child with the deadly virus.

SECTION 2. Sterile needle and syringe exchange program. (a) No later than July 1, 1990, the director of health shall establish a sterile needle and syringe exchange program. The program shall be administered by the director or, pursuant to a memorandum of agreement, the director's designee, subject to the following conditions:

- (1) The program shall be operated for the purpose of preventing the transmission of the human immunodeficiency virus, the hepatitis B virus, or other life-threatening blood borne diseases, and to promote the treatment and rehabilitation of intravenous drug users;
- (2) The program shall be designed and maintained to provide maximum security of exchange sites and equipment, including a full accounting of the number of needles and syringes in use, the number in storage, and any other measure that may be required to control the use and dispersal of needles and syringes; provided that a participant may exchange needles and syringes at any exchange site if more than one site is available. For the purposes of this section, the term "participant" means a person who is exchanging needles and syringes at a department of health approved needle and syringe exchange site;
- (3) The program shall provide for a one-to-one exchange wherein a participant shall be allowed to exchange one dirty needle and syringe for a sterile needle and syringe;
- (4) The program shall provide policies and procedures for the screening of participants to preclude nonintravenous drug users from participating in the program;
- (5) The program shall provide a method of identification and authorization of the persons employed by the department of health or its designee, who have access to needles, syringes, or the program's records;

- (6) As a condition of the continued operation of the pilot program, the department of health shall provide drug abuse treatment, counseling, and education services to all participants. If a participant requests treatment, a treatment slot shall be made available to that participant. The program shall include, but not be limited to, programs which educate the drug user as to the dangers of contracting HIV infections through needle-sharing practices, offer counseling to assist addicts in rehabilitating and productively reintegrating into the community, and provide treatment to overcome the dependence on drugs;
- (7) The program shall be available only to participants who accept the drug abuse treatment, counseling, or education services the department of health is required to provide under paragraph (6); and
- (8) The program shall compile research data on behavioral changes, progress in the participants' enrollment in drug abuse treatment, counseling, and education programs, disease transmission, and other information which may be relevant and useful to assist in the planning and evaluation of efforts to combat the spread of blood borne, life-threatening diseases.

(b) No employee of the department or its designee nor any participant in the program shall be in violation of section 329-43.5 on account of activities that consist only of work or participation in the sterile needle and syringe exchange program. The immunity conferred by this section does not extend to the redistribution of needles and syringes in any form and only applies to activities which occur within the boundaries of a department of health approved needle and syringe exchange site.

(c) Nothing in this section immunizes any person from prosecution for violation of any law prohibiting or regulating the use, possession, dispensing, distribution, or promotion of controlled substances, dangerous drugs, detrimental drugs, or harmful drugs. Nothing in this section immunizes any person from prosecution for violation of sections 329-41, 329-42, 712-1241, 712-1242, 712-1243, 712-1244, 712-1245, 712-1246, 712-1246.5, 712-1247, 712-1248, or 712-1249.

SECTION 3. (a) Within ten days of the effective date of this Act, the director of health shall appoint an oversight committee which shall include a representative from the attorney general's office; law enforcement representatives from the county prosecutor's offices and police departments, if possible, and such other representatives the director of health determines are necessary to conduct a thorough and unbiased evaluation of the pilot program established by this Act. The committee shall develop policies and procedures for the conduct of the evaluation and criteria upon which the development of data and the evaluation of the program shall be based. The committee shall meet periodically, at such times as determined by the committee, to monitor the progress of the pilot program and to analyze available data compiled by the program. The committee shall also have input in the evaluation report to be submitted to the legislature.

(b) The department of health, on or before January 1, 1991, and January 1, 1992, shall submit to the legislature a report on the sterile needle and syringe exchange program. The evaluation report shall include but not be limited to:

- (1) Information as to the number of participants served and the number of needles and syringes distributed;

- (2) A demographic profile of the participants served, including but not limited to age, sex, ethnicity, area of residence, occupation, types of drugs used, length of drug use, and frequency of injection;
- (3) Impact of the program on needle and syringe sharing and other high risk behavior;
- (4) Data on participants regarding HIV testing, counseling, drug treatment, and other social services, including but not limited to the number and types of referrals made and the extent of successful referrals made for HIV testing and counseling and for drug abuse treatment;
- (5) Impact on the transmission of blood borne life-threatening diseases, including, but not limited to, HIV infection among intravenous drug users and drug addiction and HIV infection among newborn infants;
- (6) Impact on behaviors which caused participants to be at risk for HIV transmission such as changes in the frequency of drug use and needle sharing and in knowledge and attitudes about their drug habit and the need for periodic HIV testing;
- (7) Comparative statistics relating to the impact of the program on drug-related crimes;
- (8) Documentation of the frequency and duration of participant enrollment in drug treatment, education, and counseling programs; and
- (9) An assessment of the cost-effectiveness of the sterile needle and syringe program versus direct and indirect costs of HIV infection.

The report shall also address the strengths and weaknesses of the sterile needle and syringe exchange program, address the advisability of its continuation, recommend amendments to this Act if appropriate, and discuss other matters that may be helpful to the legislature in evaluating the program's efficacy.

SECTION 4. Early termination of the program. If at any time the pilot program established by this Act is found to be ineffective in carrying out its stated purpose or to be promoting drug abuse, the director of health shall have the authority to terminate the program prior to July 1, 1992.

SECTION 5. This Act shall take effect upon its approval and shall be repealed on June 30, 1992.

(Approved June 25, 1990.)