

ACT 152

S.B. NO. 2382

A Bill for an Act Relating to Infectious and Communicable Diseases.

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

SECTION 1. The purpose of this Act is to authorize the department of health to establish 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 HIV infection through needle sharing among injection drug users (IDUs).

The department of health estimates that there are four to ten thousand IDUs in the State. The sharing of injection equipment, combined with unsafe sexual practices, is a major route of HIV transmission to the general public. In Hawaii, the HIV infection rate among injection drug using populations is as high as fifteen per cent. Injection drug use is a factor in virtually every birth of an HIV-infected baby in Hawaii. Preventing HIV infection is imperative because of the enormous social and economic costs to the State.

The needle exchange pilot program within the department of health has proven to be an effective bridge to treatment. It is an important component in the fight against AIDS in a population that is both at very high risk and traditionally hard to reach. The needle exchange program must continue in order to prevent the rampant spread of HIV infection among IDUs and their family members, as experienced in some communities on the east coast of the mainland United States.

SECTION 2. Chapter 325, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . NEEDLE EXCHANGE PROGRAM

§325- Definitions. As used in this part, unless the context otherwise requires:

“Department” means the department of health.

“Director” means the director of health.

“Participant” means an injection drug user who exchanges a sterile needle and syringe unit pursuant to the program.

“Program” means the sterile needle and syringe exchange program.

§325- Sterile needle and syringe exchange program established. The director of health may establish a sterile needle and syringe exchange program. The program shall be administered by the director or the director’s designees. The director is authorized to designate private providers of service to operate the program.

§325- Operation of the program. (a) The program shall be operated for the purpose of:

- (1) Preventing the transmission of the human immunodeficiency virus, the hepatitis B virus, and other blood borne diseases; and
- (2) Providing injection drug users with referrals to appropriate health and social services.

(b) The program shall provide for 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 sterile needles and syringes; provided that a participant may exchange used needles and syringes at any exchange site if more than one site is available.

(c) The program shall provide for a one-to-one exchange, whereby the participant shall receive one sterile needle and syringe unit in exchange for each used one.

(d) The program shall provide procedures for the screening of participants to prevent non-injection drug users from participating in the programs.

(e) The department shall keep records to identify and authorize persons employed by the department or its designees to have access to needles, syringes, or the program's records.

(f) The program shall include services to:

- (1) Educate the participant about the dangers of contracting HIV infection through needle-sharing practices; and
- (2) Offer substance abuse treatment referral and counseling services to all participants.

(g) The program shall compile research data on behavioral changes, enrollment in drug abuse treatment, counseling, and education programs, disease transmission, and other information that may be relevant and useful to assist in the planning and evaluation of efforts to combat the spread of blood borne diseases.

§325- Criminal liability. (a) Exchanges under the sterile needle and syringe exchange program shall not constitute an offense under section 329-43.5 for the participant or for the employees of the department or its designees.

(b) Nothing in this part provides immunity from prosecution to any person 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 part provides immunity from prosecution to any person for violation of sections 329-41, 329-42, or 712-1241 through 712-1249.6.

§325- Program oversight committee. (a)¹ The director shall appoint a sterile needle exchange program oversight committee to provide assistance and advice in the oversight of the program. The committee shall meet periodically with the director to monitor the progress and effectiveness of the program and to examine available data compiled by the program.

§325- Reports. The department, on or before January 1st of each year, shall submit a report to the oversight committee. The report shall include:

- (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 referrals for HIV testing and counseling and for drug abuse treatment;
- (5) Impact on the transmission of HIV infection among injection drug users;
- (6) Impact on behaviors that caused participants to be at risk for HIV transmission such as frequency of drug use and needle sharing;
- (7) An assessment of the cost-effectiveness of the program versus direct and indirect costs of HIV infection; and
- (8) Information on the percentage of persons served through treatment programs for injection drug users funded through the department that were attributed to needle exchange referrals.

The report shall address the strengths and weaknesses of the program, the advisability of its continuation, amendments to the law, if appropriate, and other

matters that may be helpful to the oversight committee in evaluating the program's efficacy.

§325- Termination of the program. The director may terminate the program at any time if the program does not serve its intended purpose, presents a risk to the public health, safety, or welfare, or is no longer necessary.”

SECTION 3. For each fiscal year in which the needle exchange program is operational, the department of health shall include in its annual budget testimony or in a separate appropriation bill the estimated funding needed in the next fiscal year to provide substance abuse treatment, referral, and counseling services for all needle exchange program participants who may request the services. This estimate shall reflect the amount needed to provide additional services and shall not be construed to replace the current funding level for all other substance abuse programs nor to displace other participants in such programs.

SECTION 4. This Act shall take effect on July 1, 1992.

(Approved June 8, 1992.)

Note

1. So in original.