SB169

188862-1

By Senator Singleton

RFD: Health and Human Services

First Read: 11-JAN-18

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SYNOPSIS: This bill would establish the Alabama Injection-Associated Infectious Disease Elimination Act.

This bill would authorize the Department of Public Health and local health authorities to establish injection-associated infectious disease elimination pilot programs in certain counties.

This bill would provide guidelines for injection-associated infectious disease elimination pilot programs.

This bill would also provide criminal and civil immunity to certain individuals and entities to facilitate and encourage participation in infectious disease elimination programs.

A BILL

TO BE ENTITLED

AN ACT

Relating to infectious diseases; to create the Alabama Injection-Associated Infectious Disease Elimination Act; to authorize the Department of Public Health and local health authorities to establish injection-associated infectious disease elimination pilot programs in certain counties; to provide guidelines for injection-associated infectious disease elimination pilot programs; and to provide criminal and civil immunity to certain individuals and entities to facilitate and encourage participation in infectious disease elimination programs.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Alabama Injection-Associated Infectious Disease Elimination Act.

Section 2. The Legislature finds all of the following:

(1) Persons of all ages who do not misuse, abuse, or inject heroin, opioids, or other drugs may nevertheless be exposed to and contract injection-associated infectious diseases, including, but not limited to, human immunodeficiency virus (HIV) and hepatitis C virus (HCV).

(2) Heroin drug use is at a 20-year high with use more than doubling in young adults ages 18 to 25 years in the last 10 years.

(3) The epidemic of prescription opioid misuse and abuse has led to increased numbers of people who inject drugs, placing new populations at increased risk for HIV. Rural and

nonurban areas with limited HIV and HCV prevention and treatment services and substance use disorder treatment services, traditionally areas at low risk for HIV and HCV, have been disproportionately affected.

(4) Sharing needles, syringes, and other injection drug use equipment is a direct route of both HIV and HCV transmission.

(5) Alabama continues to see new cases of HIV with 685 newly diagnosed in 2015 bringing the total living with HIV in Alabama to 12,874. Injection drug use accounts for six percent of all cases of HIV in Alabama.

(6) Cases of acute HCV in Alabama increased 200 percent in the period from 2009 to 2013, and 68.2 percent of these cases are attributable to injection drug use.

(7) Drug overdose deaths in Alabama increased 19.7 percent from 2013 to 2014, the most recent years for which data are available.

(8) At least four counties in Alabama share characteristics with Scott County, Indiana, which experienced a major outbreak of HIV and HCV in late 2014 and early 2015 directly related to injection drug use brought on by the epidemic of prescription opioid misuse and abuse. Those characteristics, as identified by the federal Centers for Disease Control and Prevention (CDC), include: Consideration of the rate of drug overdose deaths; percent unemployment; per capita income; percent white non-Hispanic population; rate of sales of prescription opioids; and percent of county

population for which local providers have been approved to prescribe buprenorphine.

(9) The lifetime treatment cost of an HIV patient is conservatively estimated at $380,000.

(10) Injection-associated infectious diseases such as HIV and HCV can also be contracted accidentally by health care providers, law enforcement officers, first responders, other emergency personnel, and other individuals, including members of the general public, through needle stick or other sharps injury or exposure to blood or other bodily fluids.

Section 3. As used in this act, the following words shall have the following meanings:

(1) CONTROLLED SUBSTANCE. The term as defined in the Alabama Uniform Controlled Substances Act, Chapter 2, of Title 20, Code of Alabama 1975.

(2) DEMONSTRATED NEED. Experiencing, or at risk for, a significant increase in infectious disease due to an analysis of factors including, but not limited to, those characteristics identified by the CDC in Scott County, Indiana.

(3) INDIVIDUAL WHO INJECTS DRUGS. An individual who uses a syringe or hypodermic needle to inject a controlled substance into the individual’s own body.

(4) INFECTIOUS DISEASE. A disease that may be spread by intentional or unintentional needle sticks, including, but not limited to, HIV and HCV.

(5) LOCAL HEALTH AUTHORITY. A county board of health constituted under Section 22-3-1, Code of Alabama 1975.

(6) PROGRAM. An injection-associated infectious disease elimination pilot program established pursuant to Section 4.

Section 4. (a) The Department of Public Health or a local health authority, in conjunction with outside organizations that promote scientifically proven ways of mitigating health risks associated with controlled substance drug use and other high-risk behaviors, may establish and operate injection-associated infectious disease elimination pilot programs in counties identified to have a demonstrated need. The duration of a pilot program shall be no more than three years, except as provided in subsection (f). The objectives of the program shall be to do all of the following:

(1) Reduce the spread of HIV, HCV, and other injection-associated infectious diseases in the state.

(2) Reduce needle stick injuries to health care providers, law enforcement officers, first responders, other emergency personnel, and the general public.

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

(b) Programs established pursuant to this section, at a minimum, shall do all of the following with respect to the program's operation and its participants:

(1) Safely dispose of used needles, hypodermic syringes, and other injection supplies.

(2) Provide needles, hypodermic syringes, and other injection supplies at no cost and in quantities sufficient to promote the purpose that needles, hypodermic syringes, and other injection supplies are not shared or reused; provided, however, that state funds may not be used to purchase needles, hypodermic syringes, or other injection supplies.

(3) Provide educational materials on all of the following:

a. Overdose prevention.

b. Prevention of infectious diseases.

c. Drug abuse prevention.

d. Treatment for mental illness, including treatment referrals.

e. Treatment for substance abuse, including referrals for medication assisted treatment.

(4) Provide access to naloxone kits that contain naloxone hydrochloride (or equivalent) that is approved by the federal Food and Drug Administration for the treatment of a drug overdose, or referrals to programs that provide access to naloxone hydrochloride (or equivalent) that is approved by the federal Food and Drug Administration for the treatment of a drug overdose.

(5) For each individual requesting such service, provide personal consultations from a program employee or volunteer concerning mental health or substance use disorder treatment as appropriate.

(6) Encourage each individual who injects drugs to seek appropriate medical, mental health, or social services.

(7) Use a recordkeeping system that ensures the identity of each individual who injects drugs remains anonymous.

(8) Notify relevant local law enforcement agencies regarding the program, including information on the limited immunity from criminal liability granted by subsection (d).

(9) Provide a wallet certificate card to each individual served by the program so employees and volunteers of the program can quickly identify the individual. This wallet certificate card shall also serve as proof of the limited immunity from criminal liability granted by subsection (d).

(10) Provide emergency medical care or referrals to program participants in need of immediate medical attention at the time they receive services through the program.

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

(c)(1) Before establishing a program, the following interested parties in the area to be served may be consulted:

a. Law enforcement representatives.

b. Prosecutors.

c. Representatives of substance use disorder treatment facilities certified by the Department of Mental Health.

d. Individuals who inject drugs and individuals in recovery from substance use disorder.

e. Nonprofit organizations focused on HIV, HCV, substance use disorder, and mental health.

f. Residents of the geographical area to be served by the program.

(2) When consulting with interested parties, the program is encouraged to consider:

a. The population to be served.

b. Concerns of law enforcement representatives and prosecutors.

c. Day-to-day administration of the program, including security of program sites, equipment, personnel, and use of volunteers.

(d)(1) An individual who injects drugs and who is an active participant in a program is granted limited immunity from and shall not be subject to criminal liability under Section 13A-12-202, 13A-12-203, 13A-12-204, 13A-12-205, 13A-12-260, or 13A-12-281, Code of Alabama 1975. The limited immunity provided in this subsection shall apply to an individual who injects drugs and who is an active program participant only if the individual claiming immunity provides a wallet certificate card stating that the individual is an active participant in a program. The immunity shall apply to a needle, hypodermic syringe, or other injection supply obtained from, or to a used needle or hypodermic syringe containing

residual amounts of a controlled substance being returned for disposal to, a program established pursuant to this section.

(2) In addition to any other applicable immunity for civil liability, a law enforcement officer who arrests or charges a person who is thereafter determined to be entitled to immunity from prosecution under this subsection shall not be subject to civil liability for the arrest or filing of charges of the person.

(3) Any officer, employee, or agent of, or volunteer for, the Department of Public Health or a local health authority or a program, and any person or any entity, profit or nonprofit, including, but not limited to, any licensed physician or other health care provider or health care facility, participating in or otherwise affiliated or associated with, contributing funds or other assistance to, conducting activities in conjunction with, providing consultations, emergency care, referrals, education, needles, hypodermic syringes, other injection supplies, or any other materials, including, but not limited to, educational materials or naloxone kits, in accordance with the program shall be immune from civil and criminal liability, as a result of such participation, affiliation, association, contribution, assistance, conduct, consultation, or provision of emergency care, referrals, education, needles, hypodermic syringes, other injection supplies, or any other materials. The immunity from liability, including vicarious liability, provided herein shall also extend to the members of any local health authority

establishing, sponsoring, operating, or administering a program. It is the express intention of this act that the immunity conferred under this subsection shall be provided to and for the employees, officers, agents of the state, persons, and entities described in this subsection for personal injury, damage to or loss of property, or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that the officer, employee, agent of the state, person, or entity had a reasonable basis for believing occurred, in relation to or in conjunction with the program; provided that this subsection expressly incorporates Section 36-1-12, Code of Alabama 1975, and neither expands nor limits the protections under that statute. It is also the specific intention of this subsection that any person or entity providing emergency care or referrals to any program participant while participating in the program shall be deemed to be acting within the scope of Section 6-5-332, Code of Alabama 1975, and subject to the liability protections and limitations contained therein. Nothing in this subsection shall be deemed to impair, derogate, or otherwise limit any other immunity of any person or entity under constitutional, statutory, or common law.

(e) Not later than one year after commencing operations of a program established pursuant to this section, and every twelve months thereafter, each local health authority operating such a program shall report the following information to the Department of Public Health:

(1) The number of individuals served by the program.

(2) The number of needles, hypodermic syringes, and other injection supplies dispensed by the program and returned to the program.

(3) The number of naloxone kits, or equivalent, distributed by the program.

(4) The number and type of treatment referrals provided to individuals served by the program, including a separate report of the number of individuals referred to programs that provide access to naloxone hydrochloride, or equivalent, that is approved by the federal Food and Drug Administration for the treatment of an overdose.

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

(f) Program operations may extend beyond an initial three-year pilot stage if the Department of Public Health or local health authority determines there to be continued demonstrated need.

(g) Nothing in this act shall be construed to establish a standard of care for physicians or otherwise modify, amend, or supersede any provision of the Alabama Medical Liability Act of 1987 or the Alabama Medical Liability Act of 1996, commencing with Section 6-5-540, et seq., Code of Alabama 1975, or any amendment thereto, or any judicial interpretation thereof.

Section 5. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.