



March 24, 2017

ENGROSSED HOUSE BILL No. 1438

DIGEST OF HB 1438 (Updated March 22, 2017 10:53 am - DI 84)

Citations Affected: IC 16-41.

Synopsis: Syringe exchange programs. Allows a county or municipality to approve the operation of a syringe exchange program (program). Allows a program to be renewed for not longer than two years. Requires a program to keep a sufficient quantity of an overdose intervention drug in stock to administer when needed. Requires the state health commissioner to receive written notice when a program is renewed, expired, or terminated or if the qualified entity operating the program changes. Extends the law concerning programs until July 1, 2021. (Current law expires July 1, 2019.)

Effective: Upon passage.

Kirchhofer, Davisson, Brown C, Zent

(SENATE SPONSORS — MERRITT, CHARBONNEAU)

January 17, 2017, read first time and referred to Committee on Public Health.
January 26, 2017, reported — Do Pass.
January 30, 2017, read second time, ordered engrossed. Engrossed.
January 31, 2017, read third time, passed. Yeas 72, nays 26.

SENATE ACTION

February 20, 2017, read first time and referred to Committee on Health and Provider Services.
March 23, 2017, reported favorably — Do Pass.

EH 1438—LS 7426/DI 104



March 24, 2017

First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1438

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-41-7.5-4, AS ADDED BY P.L.208-2015,
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 4. (a) A qualified entity may operate a
4 program only in a county **or municipality** where:

5 (1) a public health emergency has been declared; **or**
6 (2) **a program has been approved;**
7 **under section 5 of this chapter.** However, a qualified entity may not
8 operate a program outside of the jurisdictional area of the governmental
9 body that approved the qualified entity.

10 (b) A qualified entity that meets the requirements in subsection (a)
11 and complies with the requirements of this chapter may operate a
12 program.

13 SECTION 2. IC 16-41-7.5-5, AS ADDED BY P.L.208-2015,
14 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 UPON PASSAGE]: Sec. 5. Before a qualified entity may operate a
16 program in a county, the following shall occur:

17 (1) The local health officer or the executive director must declare

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1 to the executive body of the county or the legislative body of the
2 municipality the following:

3 (A) There is an epidemic of hepatitis C or HIV.

4 (B) That the primary mode of transmission of hepatitis C or
5 HIV in the county is through intravenous drug use.

6 (C) That a syringe exchange program is medically appropriate
7 as part of a comprehensive public health response.

8 (2) The legislative body of the municipality or the executive body
9 of the county must do the following:

10 (A) Conduct a public hearing that allows for public testimony.

11 (B) Take official action adopting the declarations under
12 subdivision (1) by the local health officer or the executive
13 director in consideration of the public health for the area ~~that~~
14 ~~the body represents:~~ **and, if the program complies with**
15 **section 6 of this chapter and is within the jurisdictional**
16 **limits of the county or municipality that the body**
17 **represents, either:**

18 (i) **approve the operation of the program; or**

19 (ii) **submit a request under subdivision (3) to the state**
20 **health commissioner.**

21 (3) The legislative body of the municipality or the executive body
22 of the county that took official action under subdivision (2)
23 **either:**

24 (A) notifies the state health commissioner of ~~(A)~~ the body's
25 actions under subdivision (2), **including:**

26 (i) **the period of time considered medically appropriate**
27 **for the program;**

28 (ii) **whether a renewal or an extension of the program**
29 **can occur; and**

30 (iii) **other measures taken concerning the epidemic that**
31 **have proven ineffective; or**

32 (B) **if the body does not approve the operation of a**
33 **program under subdivision (2)(B)(i) and submits a request**
34 **under subdivision (2)(B)(ii), request that the state health**
35 **commissioner declare a public health emergency and**

36 ~~(C) other measures taken concerning the epidemic that have~~
37 ~~proven ineffective.~~ **and approve the operation of a program.**

38 (4) **If subdivision (3)(B) applies, the state health commissioner**
39 **has declared a public health emergency for the county or**
40 **municipality and approved the operation of a program.**

41 SECTION 3. IC 16-41-7.5-6, AS ADDED BY P.L.208-2015,
42 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 UPON PASSAGE]: Sec. 6. A qualified entity that operates a program
2 under this chapter must do the following:

3 (1) Annually register the program in a manner prescribed by the
4 state department with the:

5 (A) state department; and

6 (B) local health department in the county **or municipality**
7 where services will be provided by the qualified entity if the
8 qualified entity is not the local health department.

9 (2) Have one (1) of the following licensed in Indiana provide
10 oversight to the qualified entity's programs:

11 (A) A physician.

12 (B) A registered nurse.

13 (C) A physician assistant.

14 (3) Store and dispose of all syringes and needles collected in a
15 safe and legal manner.

16 (4) Provide education and training on drug overdose response and
17 treatment, including the administration of an overdose
18 intervention drug.

19 (5) Provide drug addiction treatment information and referrals to
20 drug treatment programs, including programs in the local area and
21 programs that offer medication assisted treatment that includes a
22 federal Food and Drug Administration approved long acting,
23 nonaddictive medication for the treatment of opioid or alcohol
24 dependence.

25 (6) Provide syringe and needle distribution and collection without
26 collecting or recording personally identifiable information.

27 (7) Operate in a manner consistent with public health and safety.

28 (8) Ensure the program is medically appropriate and part of a
29 comprehensive public health response.

30 **(9) Keep sufficient quantities of an overdose intervention drug**
31 **(as defined in IC 16-18-2-263.9) in stock and to administer in**
32 **accordance with IC 16-42-27.**

33 SECTION 4. IC 16-41-7.5-10, AS ADDED BY P.L.208-2015,
34 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 UPON PASSAGE]: Sec. 10. A program shall file a quarterly report
36 with the state department. The report must contain the following
37 information listed on a daily basis and by the location, identified by the
38 postal ZIP code, where the program distributed and collected syringes
39 and needles:

40 (1) The number of individuals served.

41 (2) The number of syringes and needles collected.

42 (3) The number of syringes and needles distributed.



1 The state department may request that a qualified entity supply
 2 additional information concerning the program operated by the
 3 qualified entity, **including data concerning referrals to services.**

4 SECTION 5. IC 16-41-7.5-11, AS ADDED BY P.L.208-2015,
 5 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 UPON PASSAGE]: Sec. 11. (a) If the state health commissioner
 7 receives a request to declare a public health emergency under this
 8 chapter, the state health commissioner shall approve, deny, or request
 9 additional information concerning the request under section 5 of this
 10 chapter not later than ten (10) calendar days from the date the request
 11 is submitted to the state health commissioner. If additional information
 12 is:

13 (1) requested by the state health commissioner; and

14 (2) provided by the entity seeking the declaration;

15 the state health commissioner shall approve or deny the request not
 16 later than ten (10) calendar days from the submission date of the
 17 additional information.

18 (b) ~~A public health emergency declared program established~~ under
 19 ~~this section chapter~~ may remain in effect for not more than ~~one (1)~~
 20 ~~year two (2) years~~ from the date ~~the public health emergency is~~
 21 ~~declared: approved under this chapter.~~ However:

22 (1) the state health commissioner may:

23 (A) ~~renew the declaration of a public health emergency upon~~
 24 ~~the request of the executive body of the county or the~~
 25 ~~legislative body of the municipality that requested the initial~~
 26 ~~declaration and approval, renew the declaration of a public~~
 27 ~~health emergency and operation of the program for not~~
 28 ~~more than two (2) years; or~~

29 (B) ~~terminate a program; or~~

30 (2) ~~the legislative body of the municipality or the executive~~
 31 ~~body of the county that initially approved the program may,~~
 32 ~~through official action:~~

33 (A) ~~renew the program for not more than two (2) years; or~~

34 (B) ~~terminate a program;~~

35 ~~when warranted.~~

36 (c) ~~The legislative body of the municipality or the executive body~~
 37 ~~of the county shall notify the state health commissioner in writing~~
 38 ~~immediately of any of the following:~~

39 (1) ~~A renewal of a program under subsection (b) and the~~
 40 ~~period of time of the renewal.~~

41 (2) ~~The expiration or termination of a program.~~

42 (3) ~~A change in the qualified entity administering the~~



1 **program.**
2 SECTION 6. IC 16-41-7.5-14, AS ADDED BY P.L.208-2015,
3 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 14. This chapter expires July 1, ~~2019~~ **2021**.
5 SECTION 7. **An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1438, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1438 as introduced.)

KIRCHHOFER

Committee Vote: Yeas 12, Nays 1

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1438, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB1438 as printed January 27, 2017.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 12, Nays 0

