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3 HOUSE HEALTH COMMITTEE SUBSTITUTE FOR HB455
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8 SYNOPSIS: This bill would establish the Alabama
9 Injection-Associated Infectious Disease Elimination
10 Act.

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

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

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

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

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

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15 Section 2. The Legislature finds all of the
16 following:

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

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

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

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

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

8 (5) Alabama continues to see new cases of HIV with
9 685 newly diagnosed in 2015 bringing the total living with HIV
10 in Alabama to 12,874. Injection drug use accounts for six
11 percent of all cases of HIV in Alabama.

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

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

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

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

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

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

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

13 (1) CONTROLLED SUBSTANCE. The term as defined in the
14 Alabama Uniform Controlled Substances Act, Chapter 2, of Title
15 20, Code of Alabama 1975.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 9 a. Overdose prevention.
- 10 b. Prevention of infectious diseases.
- 11 c. Drug abuse prevention.
- 12 d. Treatment for mental illness, including treatment
13 referrals.
- 14 e. Treatment for substance abuse, including
15 referrals for medication assisted treatment.

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

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

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

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

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

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

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

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

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

22 a. Law enforcement representatives.

23 b. Prosecutors.

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

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

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

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

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

9 a. The population to be served.

10 b. Concerns of law enforcement representatives and
11 prosecutors.

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

15 (d) (1) An individual who injects drugs and who is an
16 active participant in a program is granted limited immunity
17 from and shall not be subject to criminal liability under
18 Section 13A-12-202, 13A-12-203, 13A-12-204, 13A-12-205,
19 13A-12-260, or 13A-12-281, Code of Alabama 1975. The limited
20 immunity provided in this subsection shall apply to an
21 individual who injects drugs and who is an active program
22 participant only if the individual claiming immunity provides
23 a wallet certificate card stating that the individual is an
24 active participant in a program. The immunity shall apply to a
25 needle, hypodermic syringe, or other injection supply obtained
26 from, or to a used needle or hypodermic syringe containing

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

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

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

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

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

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

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

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

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

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

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

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

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