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SENATE HEALTH COMMITTEE SUBSTITUTE FOR SB235

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

This bill would authorize a local health authority within the most populous county in the state according to the most recent decennial census to establish injection-associated infectious disease elimination pilot programs in that county.

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

1 Relating to infectious diseases; to create the
2 Alabama Injection-Associated Infectious Disease Elimination
3 Act; to authorize a local health authority within the most
4 populous county in the state according to the most recent
5 decennial census to establish injection-associated infectious
6 disease elimination pilot programs in that county; to provide
7 guidelines for injection-associated infectious disease
8 elimination pilot programs; and to provide criminal and civil
9 immunity to certain individuals and entities to facilitate and
10 encourage participation in infectious disease elimination
11 programs.
12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
13 Section 1. This act shall be known and may be cited
14 as the Alabama Injection-Associated Infectious Disease
15 Elimination Act.
16 Section 2. The Legislature finds each of the
17 following:
18 (1) Heroin use and other injection drug use is at a
19 20-year high.
20 (2) The epidemic of opioid misuse and addiction has
21 led to increased numbers of people who inject drugs, placing
22 new populations at increased risk for human immunodeficiency
23 virus (HIV) and hepatitis C virus (HCV). Rural and nonurban
24 areas with limited HIV and HCV prevention and treatment
25 services or substance use disorder treatment services,
26 traditionally areas at low risk for HIV and HCV, have been
27 disproportionately affected.

(3) Sharing needles, syringes, and other injection drug use equipment is a direct route of transmission for both HIV and HCV, as well as some other infections. 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, HIV and HCV.

(4) Alabama continues to see new cases of HIV, with 672 newly diagnosed in 2016, bringing the total number of individuals living with HIV in Alabama to at least 13,437. Injection drug use accounts for at least nine percent of all cases of HIV in Alabama.

(5) Cases of acute HCV in Alabama increased 360 percent in the period from 2010 to 2016, and most new cases are related to injection drug use.

(6) There were 836 confirmed drug overdose deaths in Alabama in 2017, a 44 percent increase from 2013.

(7) Several 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. Other counties in Alabama may be at risk based on the number of drug overdose deaths and overdose reversals by emergency responders.

(8) The lifetime treatment cost of an individual living with HIV is conservatively estimated at three hundred

1 eighty thousand dollars ($380,000), and the average treatment
2 cost for an individual who contracts HCV is approximately
3 eighty thousand dollars ($80,000). The estimated lifetime cost
4 of treating all the people infected in the 2014-15 Scott
5 County, Indiana, outbreak was seventy million dollars
6 ($70,000,000).
7 (9) Injection-associated infectious diseases such as
8 HIV and HCV can also be contracted accidentally by health care
9 providers, law enforcement officers, first responders, other
10 emergency personnel, sanitation workers and other individuals,
11 including members of the general public, through needle stick
12 injuries.
13 (10) There is a demonstrated need for programs to
14 combat injection-associated infectious diseases within highly
15 populated areas, and the most populous county in the state is
16 the most effective potential location for the implementation
17 and evaluation of pilot programs to that purpose.
18 Section 3. As used in this act, the following words
19 shall have the following meanings:
20 (1) CONTROLLED SUBSTANCE. The term as defined in
21 Section 20-2-2, Code of Alabama 1975.
22 (2) DEMONSTRATED NEED. Experiencing or at risk for a
23 significant increase in infectious disease due to factors
24 including, but not limited to, those identified by the federal
25 Centers for Disease Control and Prevention (CDC).

1 (3) INDIVIDUAL WHO INJECTS DRUGS. An individual who
2 uses a syringe or hypodermic needle to inject a controlled
3 substance into the individual's own body.
4 (4) INFECTIOUS DISEASE. A disease that may be spread
5 by intentional or unintentional needle sticks, including, but
6 not limited to, the Human Immunodeficiency Virus and the
7 Hepatitis C Virus.
8 (5) LOCAL HEALTH AUTHORITY. A county board of health
9 constituted under Section 22-3-1, Code of Alabama 1975.
10 (6) PROGRAM. An injection-associated infectious
11 disease elimination pilot program established pursuant to
12 Section 4.
13 (7) PROGRAM PARTICIPANT. An individual who injects
14 drugs and who is an active registered participant in a program
15 and who is provided an official certificate card from a
16 program.
17 Section 4. (a) A local health authority within the
18 most populous county in the state according to the most recent
19 decennial census may establish and operate
20 injection-associated infectious disease elimination pilot
21 programs in that county, either directly or through an
22 agreement with an outside organization that promotes
23 scientifically proven ways of mitigating health risks
24 associated with controlled substance use and other high-risk
25 behaviors. The duration of a pilot program shall be no more
26 than five years. The objectives of the program shall include
27 all of the following:

1 (1) Reduce the spread of the Human Immunodeficiency
2 Virus (HIV), the Hepatitis C Virus (HCV), and other
3 injection-associated infectious diseases in the state.
4 (2) Reduce the risk of infectious diseases from
5 needle stick injuries to health care providers, law
6 enforcement officers, first responders, other emergency
7 personnel, sanitation workers, and the general public.
8 (3) Encourage individuals who inject drugs to enroll
9 in evidence-based treatment for substance use disorder.
10 (b) Programs established pursuant to this section,
11 at a minimum, shall do all of the following with respect to
12 the program's operation and its participants:
13 (1) Safely dispose of used needles, hypodermic
14 syringes, and other injection supplies.
15 (2) Provide needles, hypodermic syringes, and other
16 injection supplies at no cost and in quantities sufficient to
17 reduce sharing or reuse of needles, hypodermic syringes, and
18 other injection supplies; provided, however, that state funds
19 may not be used to purchase needles, hypodermic syringes, or
20 other injection supplies.
21 (3) Provide educational materials on each of the
22 following:
23 a. Overdose prevention.
24 b. Prevention of infectious diseases.
25 c. Drug abuse prevention.
26 d. Treatment for mental illness, including treatment
27 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 (FDA) for the treatment of an opioid drug overdose, or referrals to programs that provide access to naloxone hydrochloride, or equivalent, that is approved by the FDA for the treatment of an opioid drug overdose.

(5) For each individual requesting service under the program, 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 (e).

(9) Provide an official certificate card to each individual served by the program so law enforcement personnel, employees, and volunteers of the program can quickly identify the individual. This certificate card shall also serve as proof of the limited immunity from criminal liability granted by subsection (e), and shall bear relevant information

1 produced according to standards to be issued by the local
2 health authority within the most populous county in the state
3 according to the most recent decennial census.
4 (10) Provide emergency medical care or referrals for
5 program participants in need of immediate medical attention at
6 the time they receive services through the program.
7 (11) Comply with applicable state and federal rules
8 and regulations governing participant confidentiality.
9 (c)(1) Before a program in an incorporated area may
10 begin operating, it must receive written approval endorsed by
11 a publicly recorded vote of the incorporated area's governing
12 body, such as a city council.
13 (2) Before a program in an unincorporated area of a
14 county can begin operating, it must have received the written
15 approval, endorsed in a public, recorded vote, of the county
16 commission for that county.
17 (3) Consent by the incorporated area's local
18 governing body or the county commission shall not be required
19 if there exists a Public Health Emergency, as declared by the
20 Governor pursuant to Section 31-9-8, Code of Alabama 1975, the
21 Alabama Emergency Management Act of 1955 due to an
22 injection-associated outbreak of infectious disease or
23 overdose deaths that includes the county in which the program
24 is being established.
25 (d)(1) Before establishing a program, the following
26 interested parties in the area to be served shall be
27 consulted:

1 a. Law enforcement representatives.
2 b. Prosecutors.
3 c. Representatives of substance use disorder
4 treatment facilities certified by the Department of Mental
5 Health.
6 d. Individuals who inject drugs and individuals in
7 recovery from substance use disorder, to the extent
8 practicable.
9 e. Nonprofit organizations focused on HIV, HCV,
10 substance use disorder, and mental health, to the extent
11 practicable.
12 f. Residents of the geographical area to be served
13 by the program, to the extent practicable.
14 (2) When consulting with interested parties, the
15 program is encouraged to consider the following:
16 a. The population to be served.
17 b. Concerns of law enforcement representatives and
18 prosecutors.
19 c. Day-to-day administration of the program,
20 including security of program sites, equipment, personnel, and
21 use of volunteers.
22 (e)(1) a. An individual who injects drugs and who is
23 an active participant in a program and in possession of an
24 official program certificate card is granted immunity from and
25 shall not be subject to criminal prosecution or liability
26 under Sections 13A-12-202, 13A-12-203, 13A-12-204, 13A-12-205,
27 13A-12-212, 13A-12-260, or 13A-12-281, Code of Alabama 1975,

1 arising from possession or use of a needle, hypodermic
2 syringe, or other injection supply obtained from a program
3 established pursuant to this section, or arising from a used
4 needle or hypodermic syringe containing residual amounts of a
5 controlled substance from being returned for disposal to a
6 program established pursuant to this section.
7 b. The immunity provided in this subsection shall
8 apply to an individual who injects drugs and who is an active
9 program participant only if the individual claiming immunity
10 provides an official certificate card stating that the
11 individual is or was an active participant in a program at the
12 time the act for which immunity is sought was committed.
13 Provision of the card at any point from initial contact with a
14 law enforcement officer and throughout the judicial process,
15 shall immediately create a presumption that the person is
16 immune from criminal liability as provided in this subsection.
17 (2) In addition to any other applicable immunity
18 from civil liability, a law enforcement officer who arrests or
19 charges a person who is thereafter determined to be entitled
20 to immunity from prosecution under this subsection shall not
21 be subject to civil liability for the arrest of, or the filing
22 of charges against, the person, unless the card was provided
23 to the officer prior to the arrest or prior to charging the
24 person under circumstances where there could be no reasonable
25 doubt that the card provided was legitimate, and unless the
26 circumstances faced by the officer during the encounter
27 created no reasonable fear of risk to the safety of the

1 officer, fellow officers, the person, or other individuals
2 present at the time of the encounter, or the public at large.
3 (3) a. Any officer, employee, or agent of, or
4 volunteer for, a local health authority within the most
5 populous county in the state according to the most recent
6 decennial census or a program, profit or nonprofit, including,
7 but not limited to, any licensed physician or other health
8 care provider or health care facility, participating in,
9 contributing funds or other assistance to, conducting
10 activities in conjunction with, providing consultations,
11 emergency care, referrals, education, needles, hypodermic
12 syringes, other injection supplies, or any other materials, in
13 accordance with the program shall be immune from criminal
14 prosecution as a result of participation, affiliation,
15 association, contribution, assistance, conduct, consultation,
16 or provision of emergency care, referrals, education, needles,
17 hypodermic syringes, other injection supplies, or any other
18 materials.
19 b. The immunity from criminal liability provided in
20 this act shall also extend to the members of any local health
21 authority establishing, sponsoring, operating, or
22 administering a program. It is the express intention of this
23 act that the employees, officers and agents of the state be
24 provided immunity for personal injury, damage to or loss of
25 property, or other civil liability caused or arising out of,
26 or in relation to, an actual or alleged act, error or omission
27 that occurred in relation to or in conjunction with the

1 program in accordance with Section 36-1-12 of the Code of
2 Alabama 1975. This section expressly incorporates Section
3 36-1-12 of the Code of Alabama 1975, and neither expands nor
4 limits the protections provided under that section. Nothing in
5 this section shall be deemed to impair, derogate, or otherwise
6 limit any other immunity of any person or entity under
7 constitutional, statutory, or common law.
8 (f) Not later than one year after commencing
9 operations of a program established pursuant to this section,
10 and every 12 months thereafter, a local health authority
11 within the most populous county in the state according to the
12 most recent decennial census operating such a program, either
13 directly or through agreement with an outside organization,
14 shall compile a report including the following information and
15 forward that report to the Senate Healthcare Committee and the
16 House Health Committee:
17 (1) The number of individuals served by the program.
18 (2) The number of needles, hypodermic syringes, and
19 other injection supplies dispensed by the program, and a
20 weight-based estimate of those returned to the program.
21 (3) The number of naloxone kits, or equivalent,
22 distributed by the program or the number of referrals made to
23 programs that provide access to naloxone kits, or equivalent.
24 (4) The number and type of substance abuse treatment
25 referrals, including referrals for medication assisted
26 treatment, provided for individuals served by the program.

1 (5) The number and type of medical, mental health,
2 and social services referrals provided to individuals served
3 by the program.
4 (g) Nothing in this act shall be construed to
5 establish a standard of care for physicians or otherwise
6 modify, amend, or supersede any provision of the Alabama
7 Medical Liability Act of 1987 or the Alabama Medical Liability
8 Act of 1996, commencing with Section 6-5-540, et seq., Code of
9 Alabama 1975, or any amendment thereto, or any judicial
10 interpretation thereof.
11 Section 5. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.