



SPONSOR: Sen. Henry & Rep. Keeley;
Sen. Marshall & Reprs. George, Hall-Long, Plant

DELAWARE STATE SENATE
143rd GENERAL ASSEMBLY
SENATE BILL NO. 60

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE TO ESTABLISH A STERILE NEEDLE AND SYRINGE EXCHANGE PILOT PROGRAM TO PREVENT AIDS AND OTHER DISEASES.

1 WHEREAS, AIDS/HIV is an epidemic in Delaware with the First State ranking fifth for infection rates on a per capita
2 basis; and

3 WHEREAS, in calendar year 2002, an average of one new AIDS case per day was reported in Delaware; and

4 WHEREAS, Delawareans age fifty years and older constitute 11.7% of AIDS cases in Delaware; and

5 WHEREAS, more than 50% of AIDS infected persons live in the City of Wilmington; and

6 WHEREAS, 27.2% of AIDS infected persons live in New Castle County outside the City of Wilmington, 9% live in
7 Kent County and 13.2% live in Sussex County, and

8 WHEREAS, the AIDS/HIV epidemic crosses all racial, ethnic, geographical and socio-economic boundaries within
9 the State of Delaware; and

10 WHEREAS, injection drug use is the most frequent mode of transmission of HIV in Delaware; and

11 WHEREAS, no evidence has ever been found to show that needle exchange programs promote drug use; and

12 WHEREAS, essentially all new AIDS cases among women and children in Delaware are associated with injection
13 drug use; and

14 WHEREAS, a series of federal government studies have demonstrated that the rate of new HIV cases caused by
15 injection drug use can be cut by 30% using needle exchange programs; and

16 WHEREAS, needle exchange programs are part of a larger AIDS prevention strategy by providing HIV testing, health
17 counseling, information on the dangers of contracting AIDS by engaging in high risk behaviors, and the importance of
18 protecting oneself from HIV infection; and

19 WHEREAS, needle exchange programs have proven not to increase the number of needles and can even potentially
20 reduce the number of discarded needles on the streets; and

21 WHEREAS, needle exchange programs have been endorsed by numerous medical and other prominent organizations,
22 including the American Medical Association, the American Academy of Pediatrics, the US Conference of Mayors, the
23 National Association of State Alcohol and Drug Abuse Directors, the World Health Organization, the American
24 Pharmaceutical Association, the National Association of Board of Pharmacy, the Association of State and Territorial Health
25 Officials, the National Alliance of State and Territorial AIDS Directors, and the National Association of Social Workers.

26 NOW THEREFORE:

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

28 Section 1. Amend Chapter 79, Title 29, Delaware Code by adding a new Subchapter VII thereto to read as follows:

29 "SUBCHAPTER VII. STERILE NEEDLE AND SYRINGE EXCHANGE PILOT PROGRAM FOR THE
30 PREVENTION OF AIDS AND OTHER DISEASES.

31 § 7980. Definitions.

32 As used in this subchapter:

33 1. 'Division' means the State Division of Public Health within the Department of Health and Social Services
34 of the State of Delaware.

35 2. 'Director' means the Director of the State Division of Public Health.

36 3. 'Participant' means an injection drug user, residing in the City of Wilmington who exchanges a sterile
37 needle and syringe unit pursuant to the program established in Section 7981 of this Subchapter.

38 4. 'HIV' means the Human Immunodeficiency Virus that causes Acquired Immune Deficiency Syndrome
39 (AIDS).

40 § 7981. Establishment of Program.

41 The Director of the State Division of Public Health shall establish a sterile needle and syringe exchange pilot
42 program to operate within the City of Wilmington. The program shall be administered by the Director or the
43 Director's designees. The Director is authorized to designate private providers of services to operate the program.

44 § 7982. Operation of the Program.

45 The Program shall:

- 46 a) Operate for the purposes of: (1) Preventing the transmission of HIV, the Hepatitis B virus, and other
47 blood borne diseases; and (2) providing injection drug users with referrals to appropriate treatment and other health
48 and social services programs.
- 49 b) Provide for a one-for-one exchange, whereby the participants shall receive one sterile needle and syringe
50 unit in exchange for each used one.
- 51 c) Include policies and procedures for the screening of participants to prevent non-injection drug users from
52 participating in the program.
- 53 d) Be designed and maintained to provide maximum security of exchange sites and equipment, including
54 security measures that shall be required to allow for: identification of program needles; a full accounting of the
55 number of needles and syringes in circulation; the number in storage; safe disposal of returned needles, and any other
56 measures that may be required to control the use and dispersal of sterile needles and syringes, provided however that a
57 participant may exchange used needles and syringes at any exchange site if more than one site is available.
- 58 e) Include appropriate levels of staff expertise in working with injecting drug users and adequate staff
59 training in providing community referrals, counseling, and preventive education.
- 60 f) Include services to: 1) Educate the participants about the dangers of contracting HIV or Hepatitis viruses
61 through needle-sharing practices and unsafe sexual behaviors; 2) provide HIV testing; 3) provide a linkage for
62 referrals to drug counseling and treatment services, and follow-up to those referrals to assure that participants receive
63 available treatment.
- 64 g) Establish procedures for identifying participants consistent with the confidentiality provisions of this
65 subchapter.
- 66 h) Establish a method of identification and authorization for program staff members who have access to
67 hypodermic needles, syringes, or program records.
- 68 i) Operate out of a program owned and operated mobile van or vans to be situated at sites to be designated
69 and advertised by the program.
- 70 § 7983. Criminal Liability.
- 71 (a) Exchanges under the sterile needle and syringe exchange program shall be exempt from the provisions of
72 Title 16, Sections 4757, 4771, and 4772, for the participant or for the employees of the Division or designated
73 program staff, whenever the possession or distribution of the controlled paraphernalia or hypodermic syringe or

74 needle is a direct result of the employee's or participant's activities in connection with the work of the program
75 authorized under this subchapter.

76 (b) Notwithstanding the provisions of subsection (a) of this Section, a program staff member or program
77 participant is not immune from criminal prosecution for: 1) the redistribution of hypodermic needles or syringes in
78 any form; 2) any activities not authorized or approved by the program; or 3) violation of laws prohibiting or regulating
79 the use, possession, dispensing, distribution, or promotion of controlled substances.

80 § 7984. Oversight Committee.

81 The Director shall appoint an Oversight Committee for the program to provide assistance and advice in the
82 oversight of the program. The Committee shall include: one representative of law enforcement, one physician, one
83 recovered injecting drug user, and up to two other individuals who the Director determines to be appropriate for
84 appointment; one legislator from the Senate appointed by the President Pro Tem and one legislator from the House of
85 Representatives appointed by the Speaker of the House; one representative of law enforcement and a member of the
86 faith community appointed by the Mayor of the City of Wilmington. The Committee shall meet periodically to
87 monitor the progress and effectiveness of the program and to examine data compiled by the program pursuant to
88 § 7985 of this subchapter.

89 § 7985. Data Collection and Program Reports.

90 The program shall collect the following data for the Director and the Oversight Committee:

- 91 a) Information on the number of participants served and the number of needles and syringes distributed;
- 92 b) A demographic profile of the participants served, including but not limited to: age, sex, ethnicity, area of
93 residence, occupation, types of drugs used, length of drug use, and frequency of injection;
- 94 c) The number of participants entering drug counseling and treatment, and the number of referrals made by
95 the program for drug counseling and treatment;
- 96 d) Data on participants regarding HIV testing, counseling, and/or other social services;
- 97 e) Assessment of the impact of the program on needle and syringe sharing and other high risk behaviors;
- 98 f) Impact on the transmission of HIV infection among injection drug users;
- 99 g) Other data as requested by the Director or Oversight Committee to assess the cost effectiveness and
100 strengths and weaknesses of the program.

101 § 7986. Identification of Participants and Confidentiality.

102 (a) Each program participant shall be issued an identification card with an identification number. The
103 identification number shall be cross-indexed to a confidential record containing pertinent data on the participant.

104 (b) Information obtained by the program that would identify program participants, including program
105 records is: (1) confidential; (2) not open to public inspection or disclosure; and (3) not discoverable in any criminal
106 or civil proceeding.

107 (c) Upon the written consent of a program participant, information obtained by the program may be released
108 or disclosed to a person or agency as directed by the participant.

109 (d) If a program participant raises the issue of participation in the program either as a subject matter or legal
110 defense in an administrative, civil, or criminal proceeding, the program participant waives the confidentiality of
111 identity provided under (a) and (b) of this Section.

112 § 7987. Approval to Operate Program.

113 The pilot program shall sunset five years from the date of notification and designation by the Director to the
114 entity authorized to operate the program or until receipt by the organization or entity of a written notice of
115 termination of the program from the Director, whichever shall first occur. Six months prior to the sunset of the
116 program, the Director and Oversight Committee shall prepare a report for the General Assembly which includes the
117 data collection requirements outlined in § 7985 of this subchapter, the rates of HIV infection prior to the inception of
118 the program and every subsequent year, and a recommendation on whether to continue the program.”

SYNOPSIS

This Act directs the Director of the Division of Public Health to establish a sterile needle and syringe exchange pilot program in the City of Wilmington to help prevent the spread of AIDS and other diseases. The program would use a mobile health services van to offer HIV testing, health counseling, information on substance abuse treatment, and a one-to-one needle exchange program. The goal of the pilot program would be to use a multi-faceted approach to reducing the spread of AIDS and other diseases in Delaware by encouraging drug addicts to seek treatment for their addiction, educating program participants on the dangers of contracting AIDS through needle use, and providing access to sterile needles on a one-to-one basis.

Author: Senator Henry