SENATE, No. 3009

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED OCTOBER 8, 2020

Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)
Senator VIN GOPAL
District 11 (Monmouth)
Senator NIA H. GILL
District 34 (Essex and Passaic)

Co-Sponsored by:
Senator Diegnan

SYNOPSIS
Permits establishment of additional harm reduction programs to distribute clean syringes and provide support services to injection drug users.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 10/22/2020)
AN ACT concerning harm reduction programs and supplementing

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. (New section) As used in P.L.2006, c.99 (C.26:5C-25 et al.):
“Authorized harm reduction program” means a harm reduction
program approved by the Commissioner of Health.
“Eligible entity” means a federally qualified health center, a
public health agency, a substance abuse treatment program, an
AIDS service organization, or another entity with the capacity to
implement a harm reduction program as determined by the
Department of Health.
“Harm reduction program” means a program with the primary
purpose of providing sterile syringe access to intravenous drug
users, which additionally provides services including disposing of
syringes and referring and linking intravenous drug users to HIV
and viral hepatitis prevention services, substance use disorder
treatment, medical and mental health care, and other health care
services that are essential to addressing the health and well-being of
individuals who use intravenous drugs in a manner that is consistent
with State and federal law.

2. Section 2 of P.L.2006, c.99 (C.26:5C-26) is amended to read
as follows:
2. The Legislature finds and declares that:
   a. Injection drug use is one of the most common methods of
   transmission of HIV, hepatitis C, and other bloodborne pathogens;
   b. About one in every three persons living with HIV or AIDS is
female;
   c. More than a million people in the United States [are
frequent intravenous drug users] use drugs at a cost to society in
health care, lost productivity, accidents, and crime of more than $50
billion annually;
   d. [Sterile syringe access] Harm reduction programs have been
proven effective in reducing the spread of HIV, hepatitis C, and
other bloodborne pathogens, and in reducing overdoses and
overdose deaths without increasing drug abuse or other adverse
social impacts;
   e. Every scientific, medical, and professional agency or
organization that has studied this issue, including the federal
Centers for Disease Control and Prevention, the American Medical
Association, the American Public Health Association, the National
Academy of Sciences, the National Institutes of Health Consensus

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Panel, the American Academy of Pediatrics, and the United States Conference of Mayors, has found [sterile syringe access] harm reduction programs to be effective in reducing the transmission of HIV. [and]

f. [Sterile syringe access] Harm reduction programs are designed to prevent the spread of HIV, hepatitis C, and other bloodborne pathogens, and to provide a bridge to [drug abuse] substance use disorder treatment and other social services [for drug users]; and it is in the public interest to establish such programs in this State in accordance with statutory guidelines designed to ensure the safety of consumers who use these programs, the health care workers who operate them, and the members of the general public; 

g. Despite the attention that substance use disorders and overdose deaths are receiving Statewide, the number of overdose deaths in New Jersey has steadily risen. There was a 40 percent increase in overdose deaths in 2016. In 2018, there were roughly 3,000 overdose deaths in New Jersey and 70,000 overdose deaths nationwide;

h. The COVID-19 pandemic has increased the urgency of maintaining and expanding harm reduction services. Now more than ever, harm reduction expansion is critical. According to the federal Centers for Disease Control and Prevention’s June 24-30, 2020 mortality and morbidity weekly report, 13 percent of U.S. residents began substance use or increased substance use during the pandemic. New Jersey has already started to see the consequences of the intersecting opioid and COVID-19 crises. As of July 2020 there have been over 1,800 overdose deaths in 2020. If this trend continues, New Jersey will lose 3,144 individuals to overdose in 2020, which would be New Jersey’s highest drug-related fatality count in the past decade;

i. The opioid epidemic is part of a syndemic and is associated with increased rates of HIV and hepatitis infection, as well as other social complexities;

j. New Jersey enacted the "Bloodborne Disease Harm Reduction Act" P.L.2006, c.99 (C.26:5C-25 et al.) in 2006 to allow for the establishment of sterile syringe access programs, which are hereafter referred to as harm reduction programs. New Jersey now has seven such programs operating throughout the State;

k. The federal Centers for Disease Control and Prevention describe harm reduction programs as an effective component of a comprehensive and integrated approach to HIV prevention. Such programs offer clean needles, resources for critical services such as HIV care, treatment, pre- and post-exposure prophylaxis services, screening for other sexually transmitted diseases, hepatitis C testing and treatment, hepatitis A and B vaccinations, and other medical, social, and mental health services. In addition to providing clean needles and testing services, most programs offer other services,
such as education concerning safe injection practices, wound care, and overdose prevention;

1. The U.S. Department of Health and Human Services has stated that “there is conclusive scientific evidence that clean syringe programs, as part of a comprehensive HIV prevention strategy, are an effective public health intervention that reduces the transmission of HIV and does not encourage the use of illegal drugs”;

m. Harm reduction programs do not promote drug use and do not minimize the harm and danger associated with lawful and unlawful drug use. Individuals utilizing harm reduction programs are often ill, in pain, have experienced trauma, and are served by professionals who offer services with compassion and without judgment;

n. There is evidence demonstrating that crime does not increase in areas surrounding harm reduction programs;

o. Harm reduction programs do not interfere with substance use disorder treatment efforts. The programs provide a bridge to substance use disorder treatment and other social services;

p. For individuals who inject drugs, the best way to reduce the risk of acquiring and transmitting infectious disease through injection drug use is to stop injecting drugs, but for individuals who do not stop injecting drugs, the use of sterile injection equipment can reduce the risk of acquiring and transmitting infectious diseases and prevent outbreaks;

q. Research shows that the provision of clean syringes is associated with an estimated 50 percent reduction in the incidence of HIV and hepatitis C, a greater likelihood that individuals will seek treatment, and decreased overdose rates; and

r. Harm reduction programs in New Jersey provide clean syringes and operate under a philosophy of harm reduction, which honors the dignity of those who use drugs or are living with a substance use disorder, reduces the negative consequences of injection drug use, and provides a stigma-free environment for people who use drugs by providing the care they desire and need. (cf: P.L.2016, c.36, s.1)

3. Section 3 of P.L.2006, c.99 (C.26:5C-27) is amended to read as follows:

3. The Commissioner of Health shall establish a program to permit [a municipality to operate a sterile syringe access program] the establishment and operation of harm reduction programs in accordance with the provisions of P.L.2006, c.99 (C.26:5C-25 et seq.) [as amended by P.L.2016, c.36]. The commissioner shall prescribe by regulation requirements for [a municipality to establish, or otherwise authorize the operation within that municipality of, a sterile syringe access program] the establishment and operation of harm reduction programs to provide [for the exchange of] hypodermic syringes and needles in accordance with

a. The commissioner shall:

(1) request an application, to be submitted on a form and in a manner to be prescribed by the commissioner, from any [municipality] entity that seeks to establish or operate a [sterile syringe access] harm reduction program [I, or from other entities authorized to operate a sterile syringe access program within that municipality as provided in paragraph (2) of subsection a. of section 4 of P.L.2006, c.99 (C.26:5C-28), as amended by P.L.2016, c.36];

(2) approve those applications that meet the requirements established by regulation of the commissioner [and contract with the municipalities or entities whose applications are approved to establish a sterile syringe access program as provided in paragraph (2) of subsection a. of section 4 of P.L.2006, c.99 (C.26:5C-28), as amended by P.L.2016, c.36, to operate a sterile syringe access program in any municipality in which the governing body has authorized the operation of sterile syringe access program within that municipality by ordinance];

(3) support and facilitate, to the maximum extent practicable, the linkage of [sterile syringe access] harm reduction programs to: (a) health care facilities and programs that may provide appropriate health care services, including mental health services, medication-assisted drug treatment services, and other substance abuse treatment services to consumers participating in a [sterile syringe access] harm reduction program; and (b) housing assistance programs, career and employment-related counseling programs, and education counseling programs that may provide appropriate ancillary support services to consumers participating in a [sterile syringe access] harm reduction program;

(4) provide for the adoption of a uniform [identification] membership card or other uniform Statewide means of identification for consumers, staff, and volunteers of a [sterile syringe access] harm reduction program pursuant to paragraph (9) of subsection b. of section 4 of P.L.2006, c.99 (C.26:5C-28) [I, as amended by P.L.2016, c.36]; and

(5) maintain a record of the data reported to the commissioner by [sterile syringe access] harm reduction programs pursuant to paragraph (11) of subsection b. of section 4 of P.L.2006, c.99 (C.26:5C-28)[I, as amended by P.L.2016, c.36].

b. The commissioner shall be authorized to accept funding as may be made available from the private sector to effectuate the purposes of P.L.2006, c.99 (C.26:5C-25 et seq.)[I, as amended by P.L.2016, c.36].

(cf: P.L.2016, c.36, s.2)
4. Section 4 of P.L.2006, c.99 (C.26:5C-28) is amended to read as follows:

4. a. In accordance with the provisions of section 3 of P.L.2006, c.99 (C.26:5C-27), an eligible entity may be approved by the Commissioner of Health to [a municipality may] establish [or authorize establishment of] a [sterile syringe access] harm reduction program [that is approved by the commissioner to provide for the exchange of hypodermic syringes and needles].

   (1) [A municipality that establishes a sterile syringe access program.] An authorized harm reduction program may operate the program at a fixed location or through a mobile access component, and may operate the program directly or contract with one or more of the following entities to operate the program: a hospital or other health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a federally qualified health center, a public health agency, a substance abuse treatment program, an AIDS service organization, or another nonprofit entity designated by the [municipality] commissioner. [These entities shall also be authorized to contract directly with the commissioner in any municipality in which the governing body has authorized the operation of sterile syringe access programs by ordinance pursuant to paragraph (2) of this subsection. The municipality or entity under contract shall implement the sterile syringe access program in consultation with a federally qualified health center and the New Jersey Office on Minority and Multicultural Health in the Department of Health, and] An authorized harm reduction program shall be managed in consultation with the Division of HIV, STD, and TB Services in the Department of Health in a culturally competent manner.

   (2) [Pursuant to paragraph (2) of subsection a. of section 3 of P.L.2006, c.99 (C.26:5C-27), a municipality whose governing body has authorized the operation of sterile syringe access programs within the municipality may require within the authorizing ordinance that an entity as described in paragraph (1) of this subsection obtain approval from the municipality, in a manner prescribed by the authorizing ordinance, to operate a sterile syringe access program prior to obtaining approval from the commissioner to operate such a program, or may permit the entity to obtain approval to operate such a program by application directly to the commissioner without obtaining prior approval from the municipality.] (deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)

   (3) [Two or more municipalities may jointly establish or authorize establishment of a sterile syringe access program that operates within those municipalities pursuant to adoption of an ordinance by each participating municipality pursuant to this section.] (deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)
harm reduction program shall comply with the following requirements:

(1) Sterile syringes and needles shall be provided at no cost to consumers 18 years of age and older;

(2) Program staff shall be trained and regularly supervised in:

An authorized harm reduction program shall be responsible for training program staff in the following subjects: harm reduction, substance use disorder, medical and social service referrals; and infection control procedures, including universal precautions and needle stick injury protocol; and other subjects as determined by the authorized harm reduction program and the Department of Health. Programs shall maintain records of staff and volunteer training and of hepatitis C and tuberculosis screening provided to volunteers and staff;

(3) The program shall offer information about HIV, hepatitis C and other bloodborne pathogens and prevention materials at no cost to consumers, and shall seek to educate all consumers about safe and proper disposal of needles and syringes;

(4) The program shall provide information and referrals to consumers, including HIV, hepatitis C, and sexually transmitted infection testing options, access to medication-assisted substance use disorder treatment programs and other substance use disorder treatment programs, and available health and social service options relevant to the consumer’s needs. The program shall encourage consumers to receive an HIV test, and shall, when appropriate, develop an individualized substance use disorder treatment plan for each participating consumer, hepatitis C, and sexually transmitted infection tests;

(5) The program shall screen out consumers under 18 years of age from access to syringes and needles, and shall refer them to substance use disorder treatment and other appropriate programs for youth;

(6) The program shall develop a plan for the handling and disposal of used syringes and needles in accordance with requirements set forth at N.J.A.C.7:26-3A.1 et seq. for regulated medical waste disposal pursuant to the “Comprehensive Regulated Medical Waste Management Act,” P.L.1989, c.34 (C.13:1E-48.1 et al.), and shall also develop and maintain protocols for post-exposure treatment;

(7) (a) The program may obtain a standing order, pursuant to the “Overdose Prevention Act,” P.L.2013, c.46 (C.24:6J-1 et seq.), authorizing program staff to carry and dispense naloxone hydrochloride or another opioid antidote to consumers and the family members and friends thereof;

(b) The program shall provide overdose prevention information to consumers, the family members and friends thereof, and other persons associated therewith, as appropriate, in accordance with the
provisions of section 5 of the "Overdose Prevention Act," P.L.2013, c.46 (C.24:6J-5);

(8) The program shall maintain the confidentiality of consumers by the use of confidential identifiers, which shall consist of the first two letters of the first name of the consumer's mother and the two-digit day of birth and two-digit year of birth of the consumer, or by the use of such other uniform Statewide mechanism as may be approved by the commissioner for this purpose;

(9) The program shall provide a uniform [identification] membership card that has been approved by the commissioner to consumers and to staff and volunteers involved in transporting, exchanging or possessing syringes and needles, or shall provide for such other uniform Statewide means of identification as may be approved by the commissioner for this purpose;

(10) The program shall provide consumers at the time of enrollment with a schedule of program operation hours and locations, in addition to information about prevention and harm reduction and substance use disorder treatment services; and

(11) The program shall establish and implement accurate data collection methods and procedures as required by the commissioner for the purpose of evaluating the [sterile syringe access] harm reduction programs, including the monitoring and evaluation on a quarterly basis of:

(a) [sterile syringe access] harm reduction program participation rates [including the number of consumers who enter substance use disorder treatment programs and the status of their treatment] and referrals made to substance use disorder treatment programs;

(b) the effectiveness of [the sterile syringe access] harm reduction programs in meeting their objectives, including, but not limited to, return rates of syringes and needles distributed to consumers and the impact of the [sterile syringe access] harm reduction programs on intravenous drug use; and

(c) the number and type of referrals provided by the [sterile syringe access] harm reduction programs and the specific actions taken by the [sterile syringe access] harm reduction programs on behalf of each consumer.

c. [A municipality may terminate a sterile syringe access program established or authorized pursuant to this act, which is operating within that municipality, if its governing body approves such an action by ordinance, in which case the municipality shall notify the commissioner of its action in a manner prescribed by regulation of the commissioner.] The commissioner shall have sole authority to terminate a harm reduction program authorized or established by the commissioner without the need for application or approval by the host municipality. Prior to establishing a harm reduction program in a municipality, the commissioner shall meet with the municipality’s mayor and council, as appropriate, in-
person or through video or phone conference, and present to the
municipality detailed plans for the harm reduction program,
including information on the expected benefits from the
establishment of a harm reduction program. The commissioner
shall maintain direct and open communication with the municipality
prior to and during the establishment of a harm reduction program
in the municipality and shall promptly respond to concerns and
other issues raised by the municipality.

(cf: P.L.2017, c.131, s.104)

5. Section 5 of P.L.2006, c.99 (C.26:5C-29) is amended to read
as follows:

5. a. (1) The Commissioner of Health shall report to the
Governor and, pursuant to section 2 of P.L.1991, 164 (C.52:14-
19.1), the Legislature, no later than one year after the effective date
of P.L.2006, c.99 (C.26:5C-25 et seq.) and biennially thereafter, on
the status of [sterile syringe access] harm reduction programs
established pursuant to sections 3 and 4 of] P.L.2006, c.99
(C.26:5C-27 and C.26:5C-28), [as amended by P.L.2016, c.36,] and shall include in that report the data provided to the
commissioner by each [sterile syringe access] harm reduction
program pursuant to paragraph (11) of subsection b. of section 4 of

(2) For the purpose of each biennial report pursuant to
paragraph (1) of this subsection, the commissioner shall:

(a) consult with local law enforcement authorities regarding the
impact of the [sterile syringe access] harm reduction programs on
the rate and volume of crime in the affected municipalities and
include that information in the report; and

(b) seek to obtain data from public safety and emergency
medical services providers Statewide regarding the incidence and
location of needle stick injuries to their personnel and include that
information in the report.

b. (Deleted by amendment, P.L.2016, c.36)

c. The commissioner shall prepare a detailed analysis of the
[sterile syringe access] harm reduction programs, and report on the
results of that analysis to the Governor, the Governor's Advisory
Council on HIV/AIDS and Related Blood-Borne Pathogens, and,
pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the
Legislature annually. The analysis shall include, but not be limited
to:

(1) any increase or decrease in the spread of HIV, hepatitis C
and other bloodborne pathogens that may be transmitted by the use
of contaminated syringes and needles;

(2) the number of exchanged syringes and needles and an
evaluation of the disposal of syringes and needles that are not
returned by consumers;
the number of consumers participating in the sterile syringe access harm reduction programs and an assessment of their reasons for participating in the programs;

(4) the number of consumers in the sterile syringe access harm reduction programs who participated in substance use disorder treatment programs; and

(5) the number of consumers in the sterile syringe access harm reduction programs who benefited from counseling and referrals to programs and entities that are relevant to their health, housing, social service, employment and other needs.

d. (Deleted by amendment, P.L.2016, c.36)

(cf: P.L.2017, c.131, s.105)

6. Section 7 of P.L.2006, c.99 (C.26:5C-31) is amended to read as follows:

7. a. [The] Notwithstanding any provision of law to the contrary, the Commissioner of Health and Senior Services, in consultation with the Commissioner of Environmental Protection pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of sections 3 and 4 of P.L.2006, c.99 [(C.26:5C-27 and C.26:5C-28)] (C.26:5C-25 et al.),

b. Notwithstanding any provision of P.L.1968, c.410 to the contrary, the commissioner shall adopt, immediately upon filing with the Office of Administrative Law and no later than the 90th day after the effective date of this act, such regulations as the commissioner deems necessary to implement the provisions of this act which shall be effective until the adoption of rules and regulations pursuant to subsection a. of this section for a period not to exceed 180 days and thereafter may be amended, adopted or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410.

(cf: P.L.2006, c.99, s.7)

7. This act shall take effect immediately.

STATEMENT

This bill permits the establishment of additional harm reduction programs, which are currently known as “syringe access programs,” to distribute clean syringes to injection drug users and provide those individuals with additional support services. The bill renames the current syringe access programs as “harm reduction programs.”
Current law provides that municipalities may establish a harm reduction program, subject to certain requirements, including a requirement that harm reduction programs link to health care facilities and programs that may provide appropriate health care services, including mental health services, medication-assisted drug treatment services, and other substance abuse treatment services to consumers participating in a harm reduction program, as well as housing assistance programs, career and employment-related counseling programs, and education counseling programs. Programs are to additionally provide for the adoption of a uniform identification card or other uniform Statewide means of identification for consumers, staff, and volunteers of a harm reduction program and maintain a record of the data reported to the commissioner by programs.

This bill revises the current law to allow any entity to establish a harm reduction program upon application to the Commissioner of Health (commissioner), subject to the same general operational requirements as currently apply, including certain training requirements for program staff related to harm reduction, substance use disorder, medical and social service referrals, infection control procedures, including universal precautions and needle stick injury protocols, and other subjects as determined by the authorized harm reduction program and the Department of Health. Programs are to maintain records of staff and volunteer training and of hepatitis C and tuberculosis screening provided to volunteers and staff. Other requirements include age restrictions for participation, consumer information and service requirements concerning consumer confidentiality, and data collection requirements.

The commissioner will have sole authority to terminate a harm reduction program.

The bill provides that an authorized harm reduction program is to be managed in consultation with the Division of HIV, STD, and TB Services in the Department of Health in a culturally competent manner.

Prior to establishing a harm reduction program in a municipality, the commissioner is to meet with the municipality’s mayor and council, as appropriate, in-person or through video or phone conference and present to the municipality detailed plans for the harm reduction program, including information on the expected benefits from the establishment of a harm reduction program. The commissioner is to maintain direct and open communication with the municipality prior to and during the establishment of a harm reduction program in the municipality and is to promptly respond to concerns and other issues raised by the municipality.

Injection drug use is one of the most common methods of transmission of HIV, hepatitis C, and other bloodborne pathogens. About one in every three persons living with HIV or AIDS is
female. More than a million people in the United States are frequent drug users at a cost to society in health care, lost productivity, accidents, and crime of more than $50 billion annually. Harm reduction programs have been proven effective in reducing the spread of HIV, hepatitis C, and other bloodborne pathogens without increasing drug abuse or other adverse social impacts. Every scientific, medical, and professional agency or organization that has studied this issue, including the federal Centers for Disease Control and Prevention (CDC), the American Medical Association, the American Public Health Association, the National Academy of Sciences, the National Institutes of Health Consensus Panel, the American Academy of Pediatrics, and the United States Conference of Mayors, has found harm reduction programs to be effective in reducing the transmission of HIV. Harm reduction programs are designed to prevent the spread of HIV, hepatitis C, and other bloodborne pathogens, and to provide a bridge to substance use disorder treatment and other social services for individuals with a substance use disorder; and it is in the public interest to establish such programs in this State in accordance with statutory guidelines designed to ensure the safety of consumers who use these programs, the health care workers who operate them, and the members of the general public.

Despite the attention that substance use disorder and overdose are receiving Statewide, the number of overdose deaths in New Jersey has steadily risen. There was a 40 percent increase in overdose deaths in 2016. In 2018, there were roughly 3,000 overdose deaths in New Jersey and 70,000 overdose deaths nationwide. The COVID-19 pandemic has increased the urgency of maintaining and expanding harm reduction services. Now more than ever, harm reduction expansion is critical. According to the federal CDC’s June 24-30, 2020 mortality and morbidity weekly report, 13 percent of U.S. residents began substance use or increased substance use during the pandemic. New Jersey has already started to see the consequences of the intersecting overdose and COVID-19 crises. As of July 2020 there have been over 1,800 overdose deaths in 2020. If this trend continues, New Jersey will lose 3,144 individuals to overdose in 2020, which would be New Jersey’s highest drug-related fatality count in the past decade. The opioid epidemic is part of a syndemic and is associated with increased rates of HIV and hepatitis as well as other social complexities and increased rates of sexually transmitted infections. New Jersey enacted the "Bloodborne Disease Harm Reduction Act" in 2006 to allow for the establishment of harm reduction programs. New Jersey now has seven such programs throughout the State.

According to the CDC, people with access to harm reduction programs are 50 percent less likely to acquire HIV or Hepatitis C; five times more likely to start a drug treatment program; and three times more likely to stop chaotic substance use. Despite these
benefits, New Jersey is currently implementing enough harm
reduction programs.

If New Jersey had the same level of per-capita syringe access
that Kentucky has, New Jersey would have 105 harm reduction
centers as compared to the seven programs currently operating in
the State. Residents of 14 New Jersey counties are still without
access to harm reduction services.

The Department of Health has invested in efforts to expand harm
reduction programs. It is the sponsor’s belief that this bill will give
the commissioner the authority to establish new harm reduction
programs in areas of need throughout the State.