CHAPTER 99

AN ACT providing for sterile syringe access programs, supplementing Titles 26 and 13 of the Revised Statutes and Title 2C of the New Jersey Statutes, amending P.L.1989, c.34, and making an appropriation.

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

C.26:5C-25 Short title.

1. This act shall be known and may be cited as the "Bloodborne Disease Harm Reduction Act."

C.26:5C-26 Findings, declarations relative to sterile syringe access programs.

2. The Legislature finds and declares that:

a. New Jersey, in comparison with other states nationwide, has the highest rate of cumulative AIDS cases among women, the third highest rate of cumulative pediatric AIDS cases, the fifth highest adult HIV rate, and a rate of injection-related HIV infection that is almost twice the national average;

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 at a cost to society in health care, lost productivity, accidents and crime of more than $50 billion annually;

d. Sterile syringe access 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; yet New Jersey remains the only State nationwide that provides no access to sterile syringes in order to prevent the spread of disease;

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 Panel, the American Academy of Pediatrics, and the United States Conference of Mayors, has found sterile syringe access programs to be effective in reducing the transmission of HIV; and

f. Sterile syringe access programs are designed to prevent the spread of HIV, hepatitis C and other bloodborne pathogens, and to provide a bridge to drug abuse treatment and other social services for drug users; and it is in the public interest to encourage the development of 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.

C.26:5C-27 Demonstration program for operation of sterile syringe access programs.

3. The Commissioner of Health and Senior Services shall establish a demonstration program to permit up to six municipalities to operate a sterile syringe access program in accordance with the provisions of this act. For the purposes of the demonstration program, 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 to provide for the exchange of hypodermic syringes and needles in accordance with the provisions of this act.

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 that seeks to establish a sterile syringe access

program, 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 this act;

(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 this act to operate a sterile syringe access program in any municipality in which the governing body has authorized the operation of sterile syringe access programs within that municipality by ordinance;

(3) support and facilitate, to the maximum extent practicable, the linkage of sterile syringe access programs to such health care facilities and programs as may provide appropriate health care services, including mental health and substance abuse treatment, and to housing assistance, career employment-related counseling, and education counseling to consumers participating in any such program;

(4) provide for the adoption of a uniform identification card or other uniform Statewide means of identification for consumers, staff and volunteers of a sterile syringe access program pursuant to paragraph (8) of subsection b. of section 4 of this act; and

(5) maintain a record of the data reported to the commissioner by sterile syringe access programs pursuant to paragraph (10) of subsection b. of section 4 of this act.

b. The commissioner shall be authorized to accept such funding as may be made available from the private sector to effectuate the purposes of this act.

C.26:5C-28 Establishment, authorization by municipality of sterile syringe access program; requirements.

4. a. In accordance with the provisions of section 3 of P.L.2006, c.99 (C.26:5C-27), a municipality may establish or authorize establishment of a sterile syringe access 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, at a fixed location or through a mobile access component, 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. 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 Senior Services, and 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.

(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.

b. A sterile syringe access 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: harm reduction; substance abuse, medical and social service referrals; and infection control procedures, including universal precautions and needle stick injury protocol; and 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 testing options, access to drug abuse treatment programs, and available health and social service options relevant to the consumer's needs, shall encourage consumers to receive an HIV test, and shall also, when appropriate, develop an individualized drug abuse treatment plan for each participating consumer;

(5) The program shall screen out consumers under 18 years of age from access to syringes and needles, and shall refer them to drug abuse 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) 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;

(8) The program shall provide a uniform identification 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;

(9) 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 drug abuse treatment services; and

(10) 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 programs, including the monitoring and evaluation on a quarterly basis of:

(a) sterile syringe access program participation rates, including the number of consumers who enter drug abuse treatment programs and the status of their treatment;

(b) the effectiveness of the sterile syringe access 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 programs on intravenous drug use; and

(c) the number and type of referrals provided by the sterile syringe access programs and the specific actions taken by the sterile syringe access 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.

C.26:5C-29 Reports to Governor, Legislature.

5. a. (1) The Commissioner of Health and Senior Services shall report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, no later than one year after the effective date of this act and biennially thereafter, on the status of sterile syringe access programs established pursuant to sections 3 and 4 of P.L.2006, c.99 (C.26:5C-27 and C.26:5C-28), and shall include in that report the data provided to the commissioner by each sterile syringe access program pursuant to paragraph (10) of subsection b. of section 4 of P.L.2006, c.99 (C.26:5C-28).

(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 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. The commissioner 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 six months after the date that the initial sterile syringe access program, which is approved by the commissioner pursuant to section 3 of P.L.2006, c.99 (C.26:5C-27), commences its operations, and shall include in that report:

(1) an assessment of whether an adequate number of drug abuse treatment program slots is available to meet the treatment needs of persons who have been referred to drug abuse treatment programs by sterile syringe access programs pursuant to paragraph (4) of subsection b. of section 4 of P.L.2006, c.99 (C.26:5C-28); and

(2) a recommendation for such appropriation as the commissioner determines necessary to ensure the provision of an adequate number of drug abuse treatment program slots for those persons.

c. The commissioner shall contract with an entity that is independent of the department to prepare a detailed analysis of the sterile syringe access programs, and to 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, no later than 24 months after the adoption of regulations required pursuant to subsection b. of section 7 of P.L.2006, c.99 (C.26:5C-31) and annually thereafter. The analysis shall include, but not be limited to:

(1) any increase or decrease in the spread of HIV, hepatitis C and other blood-borne 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;

(3) the number of consumers participating in the sterile syringe access programs and an assessment of their reasons for participating in the programs;

(4) the number of consumers in the sterile syringe access programs who participated in drug abuse treatment programs; and

(5) the number of consumers in the sterile syringe access 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. Within 90 days after receipt of the third report pursuant to subsection c. of this section, the commissioner shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, on a day when both Houses of the Legislature are meeting in the course of a regular or special session, the commissioner's recommendations regarding whether or not to continue the demonstration program established pursuant to this act. The commissioner's recommendations shall be effective unless the Legislature passes a concurrent resolution overriding the commissioner's recommendations no later than the 45th day after its receipt of those recommendations.

C.26:5C-30 Plan for establishment, funding of regional substance abuse treatment facilities.

6. a. The Commissioner of Human Services shall develop a plan for establishing and funding regional substance abuse treatment facilities. The plan shall include a strategy for soliciting proposals from nonprofit agencies and organizations in the State, including State-licensed health care facilities, with experience in the provision of long-term care or outpatient substance abuse treatment services to meet the post-acute health, social, and educational needs of persons living with HIV/AIDS.

b. The commissioner shall submit the plan to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature no later than the 120th day after the effective date of this act, and shall report biannually thereafter to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature on the implementation of the plan.

C.26:5C-31 Rules, regulations.

7. a. The Commissioner of Health and Senior Services, in consultation with the Commissioner of Environmental Protection and 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).

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 sections 3 and 4 of P.L.2006, c.99 (C.26:5C-27 and C.26:5C-28), which shall be effective until the adoption of rules and regulations pursuant to subsection a. of this section and may be amended, adopted or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410.

C.2C:36-6a Possession of syringe, needle, certain circumstances, not an offense.

8. The possession of a hypodermic syringe or needle by a consumer who participates in, or an employee or volunteer of, a sterile syringe access program established pursuant to sections 3 and 4 of P.L.2006, c.99 (C.26:5C-27 and C.26:5C-28) shall not constitute an offense pursuant to N.J.S.2C:36-1 et seq. This provision shall extend to a hypodermic syringe or needle that contains a residual amount of a controlled dangerous substance or controlled substance analog.

9. Section 3 of P.L.1989, c.34 (C.13:1E-48.3) is amended to read as follows:

C.13:1E-48.3 Definitions.

3. As used in sections 1 through 25 of this act:

"Board" means the Board of Public Utilities.

"Collection" means the activity related to pick-up and transportation of regulated medical waste from a generator, or from an intermediate location, to a facility, or to a site outside the State, for disposal.

"Commissioners" means the Commissioner of Environmental Protection and the Commissioner of Health and Senior Services.

"Departments" means the Department of Environmental Protection and the Department of Health and Senior Services.

"Dispose" or "disposal" means the storage, treatment, utilization, processing, resource recovery of, or the discharge, deposit, injection, dumping, spilling, leaking, or placing of any regulated medical waste into or on any land or water so that the regulated medical waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Facility" means a solid waste facility as defined in section 3 of P.L.1970, c.39 (C.13:1E-3); or any other incinerator or commercial or noncommercial regulated medical waste disposal facility in this State that accepts regulated medical waste for disposal.

"Federal Act" means the "Medical Waste Tracking Act of 1988" (42 U.S.C. s.6903 et seq.), or any rule or regulation adopted pursuant thereto.

"Generator" means an ambulatory surgical or care facility, community health center, medical doctor's office, dentist's office, podiatrist's office, home health care agency, health care facility, hospital, medical clinic, morgue, nursing home, urgent care center, sterile syringe access program operating pursuant to sections 3 and 4 of P.L.2006, c.99 (C.26:5C-27 and C.26:5C-28), veterinary office or clinic, animal, biological, clinical, medical, microbiological, or pathological diagnostic or research laboratory, any of which generates regulated medical waste, or any other facility identified by the departments that generates regulated medical waste. "Generator" shall not include individual households utilizing home self-care.

"Regulated medical waste" means blood vials; cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures; pathological wastes, including tissues, organs, and body parts that are removed during surgery or autopsy; waste human blood and products of blood, including serum, plasma, and other blood components; sharps that have been used in patient care or in medical, research, or industrial laboratories engaged in medical research, testing, or analysis of diseases affecting the human body, including hypodermic needles, syringes, Pasteur pipettes, broken glass, and scalpel blades; contaminated animal carcasses, body parts, and bedding of animals that were exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals; any other substance or material related to the transmission of disease as may be deemed appropriate by the departments; and any other substance or material as may be required to be regulated by, or permitted to be exempted from, the Federal Act. The departments may adopt, by rule or regulation and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a more specific definition of regulated medical waste upon the expiration of the demonstration program established under the Federal Act.

"Noncommercial facility" means a facility or on-site generator, as the case may be, which accepts regulated medical waste from other generators for on-site disposal for a cost-based

fee not in excess of the costs actually incurred by the facility or on-site generator for the treatment or disposal of the regulated medical waste.

"Transporter" means a person engaged in the collection or transportation of regulated medical waste.

C.13:1E-48.16a Preparation, adoption of sharps disposal component for district solid waste management plan.

10. a. The board of chosen freeholders of each county and the New Jersey Meadowlands Commission, in accordance with standards adopted by the Commissioner of Environmental Protection in consultation with the Commissioner of Health and Senior Services, shall prepare and adopt a sharps disposal component as an amendment to the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) to provide for the proper and safe disposal of medical waste generated at home within the district.

b. The sharps disposal component of each district solid waste management plan shall be developed in consultation with a work group established by the governing body of the affected county and the New Jersey Meadowlands Commission, in the case of the Hackensack Meadowlands District, that includes persons not employed by or affiliated with the county or the commission, as the case may be, who have a demonstrated interest or expertise in the use and disposal of sharps, including, but not limited to, representatives of waste management companies, persons with diabetes and licensed health care facilities.

c. The Commissioner of Environmental Protection shall provide such financial assistance as may be available to the commissioner for the purpose of this section to the various counties to implement the sharps disposal component of the district solid waste management plan. The commissioner shall be authorized to accept such funding as may be made available from the private sector to effectuate the purposes of this section.

C.13:1E-48.16b Rules, regulations.

11. a. The Commissioner of Environmental Protection, in consultation with the Commissioner of Health and Senior Services and 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 section 10 of P.L.2006, c.99 (C.13:1E-48.16a).

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 section 10 of P.L.2006, c.99 (C.13:1E-48.16a), which shall be effective until the adoption of rules and regulations pursuant to subsection a. of this section and may be amended, adopted or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410.

12. There is appropriated $10,000,000 from the General Fund to the Division of Addiction Services in the Department of Human Services for inpatient and outpatient drug abuse treatment program slots and outreach.

13. This act shall take effect immediately.

Approved December 19, 2006.