

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: June 18, 2019 [] Consent [X] Regular
[] Ordinance [] Public Hearing

Department

Submitted By: Community Services

Submitted For: Community Services

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for Public Hearing on July 2, 2019 at 9:30 a.m.: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, to be entitled "The Palm Beach County Infectious Disease Elimination Program", establishing authority for an infectious disease elimination program pursuant to Florida Statute 381.0038(4); providing for a title; providing for applicability; providing for definitions; providing authorization for a needle exchange program; providing conditions precedent to establishing the needle exchange program; providing for approval of operator; providing for security of sites and equipment; providing for needle exchange program operations; providing for data and reporting requirements for needle exchange program; providing for lawful participation in needle exchange program; providing for enforcement; providing for state, county and municipal funding prohibited; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the code of laws and ordinances; providing for captions; and providing for an effective date.

Summary: The Florida Legislature recently approved the infectious Disease Elimination Act (the Act), as codified in Section 381.0038(4), Florida Statutes, authorizing the Board of County Commissioners to establish a sterile needle and syringe exchange program within its geographic boundaries with the goal of eliminating infectious diseases, including HIV and Hepatitis C. This ordinance, if adopted, will allow a needle exchange program to operate in Palm Beach County. A subsequent contract with an eligible provider must be approved and executed by the Board of County Commissioners prior to any program initiating operations within the County. The Center for Disease Control also states the programs have proven to increase entry into substance use disorder treatment, reduce needle stick injuries to first responders, reduce overdose deaths, and save health care dollars by preventing infections and preventing HIV and viral Hepatitis. The approved legislation adds Florida to a list of 39 states in the country already offering needle/syringe exchange programs. **No County funds are required** for the program, as they are expressly prohibited by the Act. Countywide (DC)

Background and Policy Issues: The Infectious Disease Elimination Act was modeled on the "IDEA Exchange" program in Miami Dade County, which was given a five-year trial approval by the Legislature in 2016. The program consists of fixed and mobile needle exchange sites, at which used needles are exchanged for clean ones. Program participants may also be given drugs that reverse opioid overdoses (Narcan), may be tested for HIV, and are given information connecting them to medical care and drug rehabilitation resources. Since its 2016 inception, the program reports it has pulled approximately 300,000 used needles out of circulation.

Attachments: Ordinance

Recommended By: James E. Allen 6/3/19
Department Director Date

Approved By: Nancy L. Bolton 6/6/19
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures					
Operating Costs					
External Revenue					
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT					

# ADDITIONAL FTE POSITIONS (Cumulative)					
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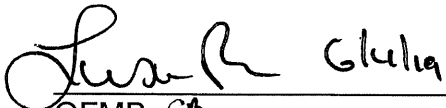
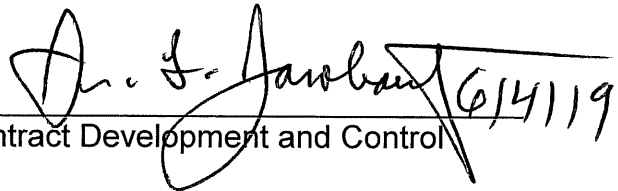
Is Item Included In Current Budget: Yes _____ No _____
Does this item include the use of federal funds? Yes _____ No _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

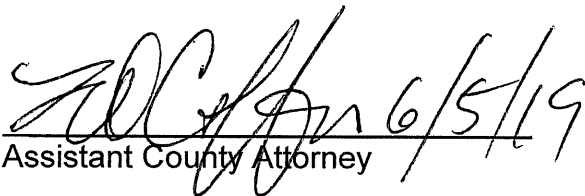
C. Departmental Fiscal Review: _____
Julie Dowe, Director, Financial & Support Svcs.

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:


OFMB ²³6/4

6/4/3 Contract Development and Control 6/4/19

B. Legal Sufficiency:


Assistant County Attorney 6/5/19

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ESTABLISHING AUTHORITY FOR AN INFECTIOUS DISEASE ELIMINATION PROGRAM PURSUANT TO FLORIDA STATUTE 381.0038(4); PROVIDING FOR A TITLE; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING AUTHORIZATION FOR A NEEDLE EXCHANGE PROGRAM; PROVIDING FOR CONDITIONS PRECEDENT TO ESTABLISHING A NEEDLE EXCHANGE PROGRAM; PROVIDING FOR APPROVAL OF OPERATOR; PROVIDING FOR SECURITY OF SITES AND EQUIPMENT; PROVIDING FOR NEEDLE EXCHANGE PROGRAM OPERATIONS; PROVIDING FOR DATA AND REPORTING REQUIREMENTS FOR NEEDLE EXCHANGE PROGRAM; PROVIDING FOR LAWFUL PARTICIPATION IN NEEDLE EXCHANGE PROGRAM; PROVIDING FOR ENFORCEMENT; PROVIDING FOR STATE, COUNTY AND MUNICIPAL FUNDING PROHIBITED; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

1 WHEREAS, Palm Beach County is the largest Florida county in geographical size, and
2 has the third largest population with 1,360,734 residents; and

3 WHEREAS, in 2017 there were 647 opioid-related deaths in Palm Beach County; and

4 WHEREAS, in Palm Beach County more than 8,400 persons are living with HIV and
5 about 1 new infection occurs every day; and

6 WHEREAS, Palm Beach County HIV Community Prevention Partnership and the Palm
7 Beach County HIV CARE Council, through its partners are working together to renew
8 HIV/AIDS awareness and to expand and strengthen the local effort to stop the spread of HIV in
9 Palm Beach County; and

10 WHEREAS, a 2001 review of studies published in the journal AIDS Science identified
11 seven studies that reported that needle exchange programs were associated with reduced
12 prevalence of HIV, hepatitis B and hepatitis C. Three studies concluded that the programs
13 reduced needle sharing, and three studies showed they were associated with increased rates of
14 entry into drug rehab programs; and

15 WHEREAS, the Florida Legislature has approved the Infectious Disease Elimination Act,
16 as codified in Section 381.0038(4), Florida Statutes, authorizing the Board of County
17 Commissioners of Palm Beach County to establish a sterile needle and syringe exchange program
18 with the goal of eliminating infectious disease; and

19 WHEREAS, the Board of County Commissioners finds that it will serve the public
20 health, safety, and welfare of the citizens of Palm Beach County to establish authority for

1 operation of an Infectious Disease Elimination Program to authorize the one-to-one exchange of
2 used needles and syringes for sterile needles and syringes, as approved in Section 381.0038(4),
3 Florida Statutes, and as authorized in this Ordinance; and

4 **WHEREAS**, the Board of County Commissioners - pursuant to its authority under the
5 Florida Constitution, Article VIII; Section 125.01(1)(g), Florida Statutes; and the Palm Beach
6 County Charter - hereby adopts the Palm Beach County Infectious Disease Elimination
7 Ordinance; and

8 **WHEREAS**, the Board of County Commissioners has conducted a duly noticed public
9 hearing to consider this Ordinance in accordance with Section 125.66, Florida Statutes.

10 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
11 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA**, that:

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13 **SECTION 1. TITLE:**

14 This Ordinance shall be titled “The Palm Beach County Infectious Disease Elimination
15 Ordinance”.

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17 **SECTION 2. APPLICABILITY:**

18 This Ordinance shall be applicable within the unincorporated areas of Palm Beach County, and
19 in all municipalities that have not adopted an ordinance in conflict. Unless otherwise provided,
20 nothing in this Ordinance shall be construed to relieve any person from compliance with any
21 applicable county or municipal regulations.

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23 **SECTION 3. DEFINITIONS:**

24 The following words shall have the meanings ascribed to them unless the text requires or
25 specifies a different meaning:

- 26 i. **BCC** is the Palm Beach County Board of County Commissioners.
- 27 ii. **Department** is the Palm Beach County Department of Community Services.
- 28 iii. **Needle Exchange Program** means a sterile needle and syringe exchange program
29 authorized by the BCC and operated pursuant to the requirements established in
30 Section 381.0038(4), Florida Statutes, and in accordance with the terms and
31 conditions of the Operator’s contract with the BCC.
- 32 iv. **Operator** is the contracted provider of the Needle Exchange Program.

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SECTION 4. AUTHORIZATION FOR A NEEDLE EXCHANGE PROGRAM:

- (a) Pursuant to the requirements of the Infectious Disease Elimination Act, established in Section 381.0038(4), Florida Statutes, a Needle Exchange Program is authorized to operate in the geographic boundaries of Palm Beach County, provided the Operator is under contract with the BCC.
- (b) The Needle Exchange Program shall offer the free exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes, with the primary goal of preventing the transmission of HIV, AIDS, viral hepatitis, and/or other blood-borne diseases among intravenous drug users and their sexual partners and offspring, and with the secondary goal of providing a bridge to drug treatment, recovery support and other social services for intravenous drug users.
- (c) The Needle Exchange Program may operate at one or more fixed locations or through mobile health units.
- (d) It shall be unlawful to operate a Needle Exchange Program unless the Operator is under contract with the BCC pursuant to the requirements of Section 381.0038(4), Florida Statutes.

SECTION 5: CONDITIONS PRECEDENT TO ESTABLISHING THE NEEDLE EXCHANGE PROGRAM:

- The following requirements must be completed by the BCC prior to the start of the Needle Exchange Program:
- (a) Establish a letter of agreement with the Florida Department of Health in which the BCC agrees that the Needle Exchange Program will operate in accordance with the requirements of Section 381.0038(4), Florida Statutes;
 - (b) Enlist the Palm Beach County Health Department to provide ongoing advice, consultation, and recommendations for the operation of the Needle Exchange Program; and
 - (c) Establish and approve the Operator’s contract pursuant to Section 6 herein.

SECTION 6: APPROVAL OF OPERATOR:

1 (a) The BCC shall approve an Operator for the Needle Exchange Program which must be
2 one of the following entities:

- 3 i. A hospital licensed under chapter 395;
- 4 ii. A health care clinic licensed under part X of chapter 400;
- 5 iii. A medical school in this state accredited by the Liaison Committee on Medical
6 Education or the Commission on Osteopathic College Accreditation;
- 7 iv. A licensed addictions receiving facility as defined in Section 397.311(26)(a),
8 Florida Statutes; or
- 9 v. A 501(c)3 HIV/AIDS service organization.

10 (b) The Operator shall contract with the BCC to provide the services authorized by this
11 ordinance and the contract. The Operator's contract shall include provisions establishing
12 each of the following:

- 13 i. An oversight and accountability system to ensure compliance with the
14 requirements of the Infectious Disease Elimination Act and the contractual
15 obligations and requirements of the Operator's contract with the BCC;
- 16 ii. The oversight and accountability system must include measurable objectives for
17 achieving the goals and objectives of the Needle Exchange Program;
- 18 iii. Monthly tracking of the Needle Exchange Program goals and objectives and the
19 progress in achieving those goals and objectives;
- 20 iv. Specific consequences and remedies for noncompliance with the oversight and
21 accountability system; and
- 22 v. Requirements to comply with all State statutes and Florida Administrative Code
23 regulations, whether now existing or hereafter promulgated, concerning the
24 Infectious Disease Elimination Act, and to comply with all local laws and
25 regulations concerning zoning, licensing, fire safety, and any other local
26 requirements pertaining to operation of the Needle Exchange Program, whether
27 now existing or hereafter promulgated.

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29 **SECTION 7. SECURITY OF SITES AND EQUIPMENT:**

30 The Operator shall provide for maximum security of sites where needles and syringes are
31 exchanged and of any equipment used under the Needle Exchange Program and shall establish
32 written security procedures. These security procedures shall be included in the Operator's

- 1 training and on-boarding process for all contractors, employees, and volunteers assisting in the
2 Needle Exchange Program. Maximum security procedures shall include, at a minimum:
- 3 (a) An accounting of the number of needles and syringes in use;
 - 4 (b) The number of needles and syringes in storage;
 - 5 (c) Safe disposal of returned needles; and
 - 6 (d) Any other measure that may be required to control the use and dispersal of sterile needles
7 and syringes.

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9 **SECTION 8. NEEDLE EXCHANGE PROGRAM OPERATIONS:**

- 10 (a) The Needle Exchange Program authorized under this Ordinance shall operate on a one-
11 to-one exchange basis, whereby a Needle Exchange Program participant shall receive one
12 sterile needle and syringe unit in exchange for each used one.
- 13 (b) Whenever needles or syringes are exchanged, the Needle Exchange Program shall offer
14 educational materials regarding the transmission of HIV, viral hepatitis, and other blood-
15 borne diseases.
- 16 (c) The Operator shall provide onsite counseling or referrals for drug abuse prevention,
17 education, treatment, and recovery support services and provide onsite HIV and viral
18 hepatitis screening or referrals for such screening. If such services are offered solely by
19 referral, they must be made available to participants within 72 hours of referral.
- 20 (d) The Operator shall also support and facilitate, to the maximum extent practicable, linkage
21 to health care and mental health services, housing assistance, career employment-related
22 and education counseling for participants.
- 23 (e) The Operator shall provide kits containing an emergency opioid antagonist, as defined in
24 Section 381.887, Florida Statutes, or provide referrals to a program that can provide such
25 kits.

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27 **SECTION 9. DATA AND REPORTING REQUIREMENTS FOR NEEDLE EXCHANGE**
28 **PROGRAM:**
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- 30 (a) The Needle Exchange Program shall prepare an annual report to the BCC and to the
31 Florida Department of Health which shall be submitted no later than August 1 annually.
32 The Needle Exchange Program shall collect and monitor, at a minimum, the following
33 data elements to be included in the annual report:
 - 34 i. The number of participants served;

- 1 ii. The number of used needles and syringes received and the number of clean,
- 2 unused needles and syringes distributed through exchange with participants;
- 3 iii. The number of participants entering drug counseling and treatment, recovery
- 4 support, and other social services;
- 5 iv. The number of participants receiving testing for HIV, AIDS, viral hepatitis, or
- 6 other blood-borne diseases;
- 7 v. Any other data collection methods and outcomes measurements that may be
- 8 required under Florida Department of Health rule or BCC contract requirement;
- 9 and
- 10 vi. The demographic profiles of the participants served.

- 11 (b) The personal identifying information of a Needle Exchange Program participant shall not
- 12 be collected for any purpose.

13

14 **SECTION 10. LAWFUL PARTICIPATION IN NEEDLE EXCHANGE PROGRAM:**

- 15 (a) The possession, distribution, or exchange of needles or syringes as part of the Needle
- 16 Exchange Program established by the BCC pursuant to Section 381.0038(4), Florida
- 17 Statutes, is not a violation of any part of Chapter 893, Florida Statutes, or any other law.
- 18 (b) However, a Needle Exchange Program staff member, volunteer, or participant is not
- 19 immune from criminal prosecution for:
 - 20 i. The possession of needles or syringes that are not a part of the Needle Exchange
 - 21 Program; or
 - 22 ii. The redistribution of needles or syringes in any form, if acting outside the Needle
 - 23 Exchange Program.

24 **SECTION 11. ENFORCEMENT:**

- 25 (a) This Ordinance is enforceable by all means provided by law.
- 26 (b) Pursuant to Section 125.69, Florida Statutes, violations of county ordinances shall be
- 27 prosecuted in the same manner as misdemeanors are prosecuted. Any person violating
- 28 any of the provisions of this Ordinance, or who shall fail to abide by and obey all orders
- 29 and resolutions promulgated as herein provided, shall, on conviction, be punished by a
- 30 fine not to exceed \$500 or imprisonment for not more than 60 days, or both, for each
- 31 violation, and payment of all costs and expenses involved in prosecuting the offense.

1 (c) Additionally, Palm Beach County may choose to enforce this Ordinance by seeking
2 injunctive relief in the Circuit Court of Palm Beach County.

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4 **SECTION 12. STATE, COUNTY AND MUNICIPAL FUNDING PROHIBITED:**

5 State, county and municipal funds cannot be used to operate a Needle Exchange Program. The
6 Operator will be required to fund Needle Exchange Program operations through grants and
7 donations from private resources and funds.

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9 **SECTION 13. REPEAL OF LAWS IN CONFLICT:**

10 All local laws and ordinances in conflict with any provision of this Ordinance are hereby repealed
11 to the extent of such conflict.

12 **SECTION 14. SEVERABILITY:**

13 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason
14 held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such
15 holding shall not affect the remainder of this Ordinance.

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17 **SECTION 15. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

18 The provisions of this Ordinance shall become and be made a part of the Palm Beach County
19 Code. The sections of this Ordinance may be renumbered or relettered to accomplish such, and
20 the word Ordinance may be changed to section, article, or other appropriate word.

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22 **SECTION 16. CAPTIONS:**

23 The captions, section headings, and section designations used in this Ordinance are for
24 convenience only and shall have no effect on the interpretation of the provisions of this
25 Ordinance.

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27 **SECTION 17. EFFECTIVE DATE:**

28 The provisions of this Ordinance shall become effective upon filing with the Department of State.

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1 **APPROVED and ADOPTED** by the Board of County Commissioners of Palm Beach
2 County, Florida, on this the ____ day of _____, 2019.

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4 **SHARON R. BOCK, CLERK**
5 **AND COMPTROLLER**

PALM BEACH COUNTY, FLORIDA, BY ITS
 BOARD OF COUNTY COMMISSIONERS

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By: _____
Deputy Clerk

By: _____
Mack Bernard, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of
_____, 2019.