

The 2019 Florida Statutes

[Title XXIX](#)

PUBLIC HEALTH

[Chapter 381](#)

PUBLIC HEALTH: GENERAL PROVISIONS

[View Entire Chapter](#)

381.0038 Education; sterile needle and syringe exchange programs.—The Department of Health shall establish a program to educate the public about the threat of acquired immune deficiency syndrome.

- (1) The acquired immune deficiency syndrome education program shall:
- (a) Be designed to reach all segments of Florida’s population;
 - (b) Contain special components designed to reach non-English-speaking and other minority groups within the state;
 - (c) Impart knowledge to the public about methods of transmission of acquired immune deficiency syndrome and methods of prevention;
 - (d) Educate the public about transmission risks in social, employment, and educational situations;
 - (e) Educate health care workers and health facility employees about methods of transmission and prevention in their unique workplace environments;
 - (f) Contain special components designed to reach persons who may frequently engage in behaviors placing them at a high risk for acquiring acquired immune deficiency syndrome;
 - (g) Provide information and consultation to state agencies to educate all state employees;
 - (h) Provide information and consultation to state and local agencies to educate law enforcement and correctional personnel and inmates;
 - (i) Provide information and consultation to local governments to educate local government employees;
 - (j) Make information available to private employers and encourage them to distribute this information to their employees;
 - (k) Contain special components which emphasize appropriate behavior and attitude change; and
 - (l) Contain components that include information about domestic violence and the risk factors associated with domestic violence and AIDS.
- (2) The education program designed by the Department of Health shall use all forms of the media and shall place emphasis on the design of educational materials that can be used by businesses, schools, and health care providers in the regular course of their business.
- (3) The department may contract with other persons in the design, development, and distribution of the components of the education program.
- (4) A county commission may authorize a sterile needle and syringe exchange program to operate within its county boundaries. The program may operate at one or more fixed locations or through mobile health units. The program shall offer the free exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes as a means to prevent the transmission of HIV, AIDS, viral hepatitis, or other blood-borne diseases among intravenous drug users and their sexual partners and offspring. Prevention of disease transmission must be the goal of the program. For the purposes of this subsection, the term “exchange program” means a sterile needle and syringe exchange program established by a county commission under this subsection. A sterile needle and syringe exchange program may not operate unless it is authorized and approved by a county commission in accordance with this subsection.
- (a) Before an exchange program may be established, a county commission must:
 - 1. Authorize the program under the provisions of a county ordinance;

2. Enter into a letter of agreement with the department in which the county commission agrees that any exchange program authorized by the county commission will operate in accordance with this subsection;
3. Enlist the local county health department to provide ongoing advice, consultation, and recommendations for the operation of the program;
4. Contract with one of the following entities to operate the program:
 - a. A hospital licensed under chapter 395.
 - b. A health care clinic licensed under part X of chapter 400.
 - c. A medical school in this state accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation.
 - d. A licensed addictions receiving facility as defined in s. 397.311(26)(a)1.
 - e. A s. 501(c)(3) HIV/AIDS service organization.
- (b) An exchange program must:
 1. Develop an oversight and accountability system to ensure the program's compliance with statutory and contractual requirements. The system must include measurable objectives for meeting the goal of the program and must track the progress in achieving those objectives. The system must require the program operator to routinely report its progress in achieving the objectives and the goal of the program. The system must also incorporate mechanisms to track the program operator's compliance or noncompliance with contractual obligations and to apply consequences for noncompliance. The program must receive the county commission's approval of the oversight and accountability system before commencing operations.
 2. Provide for maximum security of sites where needles and syringes are exchanged and of any equipment used under the program, including, at a minimum, an accounting of the number of needles and syringes in use, the number of needles and syringes in storage, safe disposal of returned needles, and any other measure that may be required to control the use and dispersal of sterile needles and syringes.
 3. Operate a one-to-one exchange, whereby a participant shall receive one sterile needle and syringe unit in exchange for each used one.
 4. Make available educational materials regarding the transmission of HIV, viral hepatitis, and other blood-borne diseases. The program operator must offer such materials to program participants whenever needles or syringes are exchanged.
 5. Provide onsite counseling or referrals for drug abuse prevention, education, and treatment, and provide onsite HIV and viral hepatitis screening or referrals for such screening. If such services are offered solely by referral, they must be made available to participants within 72 hours. The county commission in a rural county may, under its contract with the program operator, adjust the 72-hour requirement if the commission finds that the availability of providers warrants an extended timeframe.
 6. Provide kits containing an emergency opioid antagonist, as defined in s. 381.887, or provide referrals to a program that can provide such kits.
 7. Collect data for annual reporting purposes. The data must include the number of participants served; the number of used needles and syringes received and the number of clean, unused needles and syringes distributed through exchange with participants; the demographic profiles of the participants served; the number of participants entering drug counseling or treatment; the number of participants receiving testing for HIV, AIDS, viral hepatitis, or other blood-borne diseases; and other data that may be required under department rule. However, a participant's personal identifying information may not be collected for any purpose. Each exchange program shall submit a report to its county commission and to the department by August 1 annually. The department shall submit a compilation report encompassing data from all exchange programs annually by October 1 to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The department may adopt rules to implement this subparagraph.
 - (c) The possession, distribution, or exchange of needles or syringes as part of an exchange program established under this subsection is not a violation of any part of chapter 893 or any other law.
 - (d) An exchange program staff member, volunteer, or participant is not immune from criminal prosecution for:
 1. The possession of needles or syringes that are not a part of the exchange program; or

2. The redistribution of needles or syringes in any form, if acting outside the exchange program.

(e) A law enforcement officer acting in good faith who arrests or charges a person who is thereafter determined to be immune from prosecution under this section shall be immune from civil liability that might otherwise be incurred or imposed by reason of the officer's actions.

(f) State, county, or municipal funds may not be used to operate an exchange program. Exchange programs shall be funded through grants and donations from private resources and funds.

History.—s. 2, ch. 88-380; s. 17, ch. 91-297; s. 1, ch. 95-187; s. 34, ch. 97-101; s. 2, ch. 2016-68; s. 2, ch. 2019-143.

Note.—Former s. 381.608.