

Office of the City Manager

CONSENT CALENDAR
April 26, 2005

To: Honorable Mayor and
Members of the City Council

From:  Phil Kamlarz, City Manager

Subject: Supporting AB 547 – Removing Barriers to Needle Exchange

RECOMMENDATION

Adopt a Resolution supporting AB 547, which makes it possible for cities, counties, and their named agents to conduct needle exchange as a part of a comprehensive program of prevention services without being required to declare a health state of emergency every two weeks.

FINANCIAL IMPACTS OF RECOMMENDATION

Assembly Bill No. 547 (AB 547) has no direct fiscal impacts to the City of Berkeley.

CURRENT SITUATION AND ITS EFFECTS

The acquired immune deficiency syndrome (AIDS) epidemic, and more recently the spread of blood-borne hepatitis, poses a continuing public health concern in California and threatens in one way or another the life and health of every Californian.

Injection drug users are the second largest group at risk of becoming infected with the human immunodeficiency virus (HIV) and developing AIDS, and they are the primary source of heterosexual, female, and perinatal transmission in California and the United States. According to the State Office of AIDS, injection drug use has emerged as one of the most prevalent risk factors for new AIDS cases in California. Studies indicate that the lack of sterile needles available on the streets, and the existence of laws restricting needle availability promote needle sharing, and consequently the spread of HIV among injection drug users. The sharing of contaminated needles is the primary means of HIV transmission within the injection drug user population.

Existing law authorizes pharmacists and physicians to furnish hypodermic needles and syringes without a prescription or permit for human use in the administration of insulin or adrenaline.

Existing law prohibits any public entity, its agents, or employees from being subject to criminal prosecution for distribution of hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

AB 547 would instead authorize cities, counties, or cities and counties to have a clean needle and syringe exchange project that, in consultation with the State Department of Health Service, authorizes this exchange, as recommended by the United States Secretary of Health and Human Services and as part of a network of comprehensive services.

BACKGROUND

In California, more than 1,800 people die of AIDS annually, and 1,500 new infections occur through syringe sharing among intravenous drug users. Another 5,000 people become infected with Hepatitis-C in the same manner. Each HIV infection avoided is estimated to save over \$195,000, or the cost of one adult's lifetime treatment for HIV.

California currently has fourteen publicly supported clean needle and syringe exchange programs in Berkeley and Los Angeles, as well as the counties of Alameda, Contra Costa, Humboldt, Marin, Mendocino, Monterey, San Francisco, San Mateo, Santa Clara, Santa Cruz, Sonoma and Ventura. Every two weeks each of these jurisdictions, are required by Section 11364.7 of the California Health and Safety Code, to declare a state of emergency due to the HIV epidemic among intravenous drug users to allow syringes to be exchanged without a prescription by staff or agents of these health jurisdictions within their respective borders.

In Berkeley, the Department of Health and Human Services contracts this activity to the community-based organization NEED through a \$55,000 annual grant. The grant funds a portion of the cost of syringes, syringe disposal and other HIV prevention materials associated with syringe exchange activities. At specified times and sites, individuals can exchange used syringes for clean ones. In addition, individuals are referred to drug treatment, HIV testing, risk reduction counseling and other client-centered services. NEED provides over 3,000 client contacts per year.

While this declaration of a state of emergency has not been an undue burden in Berkeley, which has been carrying out this process since 1993, other health jurisdictions and municipalities have found that this requirement has been used to block the implementation of syringe exchange activities in their areas.

AB 547, introduced by Assembly members Patty Berg and Keith Richman (Coauthors: Assembly members Bass, Calderon, Chan, Chu, Cohn, De La Torre, Dymally, Evans, Goldberg, Hancock, Jones, Korctz, Laird, Leno, Levine, Lieber, Montanez, Mullin, Oropeza, Pavley, Ridley-Thomas, Saldana, and Vargas; Senators: Alquist, Chesbro, Kehoe, Kuehl, Lowenthal, Midgen, and Romero), would eliminate the language in Section 11364.7 of the California Health

and Safety Code that requires cities and counties to declare a health emergency every two weeks in order to run a needle exchange program. AB 547 instead authorize cities, counties, or cities and counties to have a clean needle and syringe exchange project that, in consultation with the State Department of Health Service, authorizes this exchange, as recommended by the United States Secretary of Health and Human Services and as part of a network of comprehensive services.

RATIONALE FOR RECOMMENDATION

AB 547 is similar to Assembly Bill 2871, which Assembly Member Berg authored last year. The measure was approved overwhelmingly in the Legislature and although supported by the California Medical Association, the California National Organization for Women, the California Nurses Association, and the California Primary Care Association, was vetoed by Governor Schwarzenegger. At that time, the Governor sought an amendment that would have required an annual review and reauthorization of the programs. As currently written, AB 547 does not include such an amendment.


Supporters of this bill cite the hundreds of studies of syringe exchange programs that have been conducted, and most of these have been summarized in a series of eight federally funded reports dating back to 1991. Each of the eight reports has concluded that syringe exchange programs can reduce the number of new HIV infections and do not appear to lead to increased drug use among intravenous drug users or in the general community.

The passage of this bill will remove a substantial barrier to implementing syringe exchange activities in some jurisdictions. As all populations can be quite mobile throughout California, the implementation of increased prevention program activities subsequent to the removal of this legal barrier to syringe exchange would predictably lower the HIV prevention burden of neighboring health jurisdictions.

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Approved by:



Fred Medrano, Director
Department of Health and Human Services

RESOLUTION NO. N.S.

SUPPORTING AB 547 WHICH MAKES IT POSSIBLE FOR CITIES, COUNTIES AND THEIR NAMED AGENTS TO CONDUCT NEEDLE EXCHANGE AS A PART OF A COMPREHENSIVE PROGRAM OF PREVENTION SERVICES WITHOUT BEING REQUIRED TO DECLARE A HEALTH STATE OF EMERGENCY EVERY TWO WEEKS

WHEREAS, the Berkeley City Council recognizes the efficacy and importance of syringe exchange in stopping the HIV epidemic as demonstrated by the hundreds of studies of syringe exchange programs that have been summarized in a series of eight federally funded reports dating back to 1991; and

WHEREAS, the Berkeley City Council has been declaring a public health state of emergency every two weeks since December 7, 1993 due to the HIV and Hepatitis C epidemics among intravenous drug users so the City may carry out syringe exchange activities as required by Section 11364.7 of the California Health and Safety Code; and

WHEREAS, this declaration of a state of emergency has not been an undue burden in Berkeley, the City Council recognizes that other health jurisdictions and municipalities have found that this requirement has been used to block the implementation of syringe exchange activities in their areas; and

WHEREAS, AB 547 would instead authorize cities, counties, or cities and counties to have a clean needle and syringe exchange project that, in consultation with the State Department of Health Service, authorizes this exchange, as recommended by the United States Secretary of Health and Human Services and as part of a network of comprehensive services.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley supports AB 547 which makes it possible for cities, counties and their named agents to conduct needle exchange as a part of a comprehensive program of prevention services without being required to declare a health state of emergency every two weeks.