



Legislation Text

File #: 23-2122, **Version:** 2

Supervisors Thomas and Parlin, in concert with Sheriff Leikauf and District Attorney Pierson, recommending the Board Approve the Final Passage (Second Reading) of Ordinance **5189** prohibiting the establishment, operation, use, and/or participation in a syringe exchange program within the unincorporated areas of the County. (Cont. 12/05/23, Item 39)

FUNDING: N/A

DISCUSSION / BACKGROUND

On December 5, 2023, the Board heard the Introduction (First Reading) of Ordinance 5189 prohibiting the establishment, operation, use, and/or participation in a syringe exchange program within the unincorporated areas of the County. The Board continued Ordinance 5189 to December 12, 2023 for Final Passage (Second Reading).

The California Legislature provides for syringe exchange programs to operate in California cities and counties in two different ways under California Health and Safety Code Section 121349: 1) By action of the local government, or 2) By authorization of the State Department of Public Health which enables entities that provide syringe exchange services to apply for authorization to provide services in “any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used hypodermic needles and syringes”. Sierra Harm Reduction has been operating in El Dorado County under the State of California’s authorization since January 2020, not by any local order or authorization through El Dorado County or the City of Placerville.

Per the requirement of their authorization, Section 121349.3 states that “health officer of the participating jurisdiction shall present biennially at an open meeting of the board of supervisors or city council a report detailing the status of clean needle and syringe exchange programs, including, but not limited to, relevant statistics on bloodborne infections associated with needle sharing activity and the use of public funds for these programs”. On October 11, 2022, with Legistar item 22-1372, the Board received a presentation and report detailing the status of the Sierra Harm Reduction Coalition’s (SHRC) syringe exchange program authorized by the California Department of Public Health (CDPH).

Additionally, Section 121349 states that authorization shall not be for more than two years, and that “before the end of the two-year period, the department may reauthorize the program in consultation with the local health officer and local law enforcement leadership”. Section 121349.2 states that “Local government, local health officials, and law enforcement shall be given the opportunity to comment on clean needle and syringe exchange programs on a biennial basis.”

The California Department of Public Health provides guidelines and details for presentations to Board of Supervisors and City Council’s stating that the presentation must include local statistics including “relevant county public health data, including HIV and hepatitis C viral (HCV) infection, opiate and stimulant overdoses, endocarditis, soft tissue infections, congenital syphilis and other diseases and

health conditions associated with injection drug use”.

At the biennial presentation on October 11, 2022, the Board of Supervisors was unanimous in their discussion and agreement that local data was not sufficient to warrant a syringe exchange program in El Dorado County, and that the program was creating more harm than public benefit. The Board was led to believe that the comment period to the State was open until the end of 2022, and by unanimous vote the Board directed staff to: 1) Provide each Board member with the contact information for the Office of AIDS and the California Department of Public Health; and 2) Contact the Office of AIDS to coordinate a discussion with the Board in a local format in order to demand that the State not reauthorize syringe exchange programs in El Dorado County.

Following the October 11, 2022 Board item and after individual Board members contacted the State, it was determined that the authorization date was actually September 1, 2023, not January 1, 2023. Additionally, Section 121349 states before the two-year authorization ends, “the department may reauthorize the program in consultation with the local health officer and local law enforcement leadership”.

On April 12, 2023, Supervisors Thomas and Parlin met with El Dorado County Sheriff Leikauf to discuss the perspective and experience of local law enforcement regarding the syringe exchange program in El Dorado County. Prior to this meeting, community members had been extremely vocal about their experience with open access to drug paraphernalia, even for youth under 18, and despite the claims of needles being reclaimed by Sierra Harm Reduction, discarded needles continue to pollute trails, camps, and public spaces. Sheriff Leikauf also expounded on the criminal activity that our local law enforcement has experienced.

On May 18, 2023, Supervisors Thomas and Parlin along with Sheriff Leikauf, Undersheriff Golmitz, and Chief Administrative Officer (CAO) Tiffany Schmid had a meeting with Alessandra Ross, MPH and Marjorie Katz from CDPH/Office of Aids to introduce and discuss our request that syringe and needle exchange programs in El Dorado County not be reauthorized. The meeting was very productive in gaining a shared understanding of our respective roles as well as clarifying what we are experiencing at a local level.

On June 20, 2023, with Legistar item 23-0884, the County sent a letter to CDPH reiterating the County's request not to reauthorize SHRC's contract for a syringe exchange program in El Dorado County. On September 1, 2023, despite the County recommendation to not reauthorize SHRC's contract, CDPH reauthorized SHRC's contract effective September 1, 2023.

On October 13, 2023, the County received notice from CDPH that SHRC had submitted an updated application and that CDPH was opening the 45-day public comment period and reaching out to the County for consultation. On November 8, 2023, the County met with CDPH for this consultation. The meeting was attended by Supervisors Thomas and Parlin, CAO Tiffany Schmid, Undersheriff Golmitz, District Attorney Pierson, Placerville Police Chief Wren, South Lake Tahoe Police Chief Stevenson, Placerville City Manager Cleve Morris, Placerville Vice Mayor Jackie Neau, Assistant CAO Laura Schwartz, Chief Assistant District Attorney James Clinchard, and Deputy District Attorney Miles Perry. CDPH representatives included Marjorie Katz and Alessandra Ross along with four other staff from CDPH. The County and City representatives reiterated the negative impacts of the syringe exchange program and recommended against the approval of the updated application for the SHRC.

On November 14, 2023, with Legistar item 23-2095, the Board approved sending a letter to the CDPH, in alliance with the El Dorado County Sheriff's Office and the El Dorado County District Attorney, requesting that CDPH deny the updated application for the reauthorization of SHRC's services for a syringe exchange program in El Dorado County.

The proposed Urgency Ordinance will prohibit the establishment, operation, use, and/or participation in a syringe exchange program within the unincorporated areas of the county to protect the public health, safety, and general welfare of its residents. The reason for the urgency is that absent the adoption of this Ordinance, the operation of a syringe exchange program in the County will continue to burden public services which have to respond to the consequences of increased overdoses, including those likely to occur within the next thirty days, as well as handling the environmental consequences of syringes being disposed in our environment, contaminating the County's waterways and posing a public health risk and damage to property and property values. Pursuant to Government Code section 25123(d), the Urgency Ordinance will take effect immediately upon adoption by the Board of Supervisors.

Health and Safety Code Section 121349 does allow the state to permit certain syringe services programs, notwithstanding any other laws. This Urgency Ordinance would serve as the identified law to prohibit the syringe exchange program from operating within the unincorporated portion of the County. Several counties and cities have adopted similar bans of syringe exchange programs, including Butte County, Placer County, Sutter County, and the cities of Anaheim, Chico, Orange, Oroville, Santa Ana, and Yuba City. The proposed Urgency Ordinance includes language stating that the prohibition would not apply if it is determined to be in conflict with any state or federal laws.

The proposed non-urgency Ordinance will repeal and replace the Urgency Ordinance once the non-urgency Ordinance is effective. The proposed non-urgency Ordinance would make the prohibition permanent and serves as a measure to alleviate the condition which led to the original proposal of the Urgency Ordinance. The prohibition would also allow the County to monitor jurisdictions in California that permit and regulate syringe services programs in case those programs are modified to address the concerns of County residents and law enforcement agencies.

ALTERNATIVES

The Board could choose not to approve the Urgency Ordinance and non-urgency Ordinance's First Reading, or could choose to make changes to the Ordinances.

PRIOR BOARD ACTION

See Discussion/Background.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel and CAO

FINANCIAL IMPACT

There is no impact to General Fund or Net County Cost associated with this item.

CLERK OF THE BOARD FOLLOW UP ACTIONS

If approved, continue this matter to the next regular meeting of the Board of Supervisors for Final

Passage (Second Reading). Following Board approval, publish Ordinance within fifteen days after its passage at least once in a newspaper of general circulation published and circulated in El Dorado County.

STRATEGIC PLAN COMPONENT

Good Governance & Public Safety

CONTACT

Supervisor Thomas

Sheriff Leikauf