

**Introduced by Senator Wiener**

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An act to add and repeal Section 11376.6 of the Health and Safety Code, relating to controlled substances.

## LEGISLATIVE COUNSEL'S DIGEST

SB 57, as introduced, Wiener. Controlled substances: overdose prevention program.

Existing law makes it a crime to possess specified controlled substances or paraphernalia. Existing law makes it a crime to use or be under the influence of specified controlled substances. Existing law additionally makes it a crime to visit or be in any room where specified controlled substances are being unlawfully used with knowledge that the activity is occurring, or to open or maintain a place for the purpose of giving away or using specified controlled substances. Existing law makes it a crime for a person to rent, lease, or make available for use any building or room for the purpose of storing or distributing any controlled substance. Existing law authorizes forfeiture of property used for specified crimes involving controlled substances.

This bill would, until January 1, 2027, authorize the City and County of San Francisco, the County of Los Angeles, and the City of Oakland to approve entities to operate overdose prevention programs for persons that satisfy specified requirements, including, among other things, providing a hygienic space supervised by trained staff where people who use drugs can consume preobtained drugs, providing sterile

consumption supplies, and providing access or referrals to substance use disorder treatment. The bill would require the City and County of San Francisco, the County of Los Angeles, and the City of Oakland, prior to authorizing an overdose prevention program in its jurisdiction, to provide local law enforcement officials, local public health officials, and the public with an opportunity to comment in a public meeting. The bill would require an entity operating a program to provide an annual report to the city or the city and county, as specified. The bill would exempt a person from, among other things, civil liability, professional discipline, or existing criminal sanctions, solely for actions, conduct, or omissions in compliance with an overdose prevention program authorized by the city or the city and county.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco, the County of Los Angeles, and the City of Oakland.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Overdose deaths in California are an urgent public health
- 4 crisis. Overdose has been the leading cause of accidental death in
- 5 the United States and in California each year since 2011.
- 6 (b) The COVID-19 pandemic has been associated with a rapid
- 7 increase in drug overdose deaths. According to data published in
- 8 the article “Drug overdoses are soaring during the coronavirus
- 9 pandemic” by the Washington Post, overdoses increased every
- 10 month in fall of 2020 compared to the prior year. In May 2020,
- 11 the increase was 42 percent compared to the prior year.
- 12 (c) Overdose prevention programs (OPPs) are an evidence-based
- 13 harm reduction strategy that allows individuals to consume drugs
- 14 in a hygienic environment under the supervision of staff trained
- 15 to intervene if the individual overdoses. OPPs also provide sterile
- 16 consumption equipment and offer general medical advice and
- 17 referrals to substance use disorder treatment, housing, medical
- 18 care, and other community social services.
- 19 (d) There are approximately 165 overdose prevention programs
- 20 operating in 10 countries around the world. Numerous

1 peer-reviewed studies have confirmed that OPPs are effective in  
2 reducing overdose deaths and HIV transmission, and in increasing  
3 access to counseling, treatment, and other risk reduction services.  
4 Research has also demonstrated that OPPs decrease use of  
5 emergency medical services, reduce public drug use, reduce syringe  
6 debris, and do not increase crime or drug use.

7 (e) In July 2020, the American Medical Association (AMA)  
8 joined several associations representing health officials and public  
9 health, drug policy, and substance use disorder treatment  
10 specialists, in an amicus brief supporting an OPP in Philadelphia,  
11 Pennsylvania. The AMA and others wrote that, “Supervised  
12 consumption sites are an evidence-based medical and public health  
13 intervention with the potential to improve individual and  
14 community health.”

15 (f) On July 8, 2020, the New England Journal of Medicine  
16 published a study on the outcomes of an unsanctioned OPP  
17 operating in the United States from 2014 to 2019, inclusive. The  
18 study and supplemental material show that not only were there no  
19 deaths resulting from over 10,000 injections, but that it was not  
20 once necessary in five years to call for paramedic services or use  
21 an outside medical facility. The authors conclude that, “sanctioned  
22 safe consumption sites in the United States could reduce mortality  
23 from opioid-involved overdose. Sanctioning sites could allow  
24 persons to link to other medical and social services, including  
25 treatment for substance use, and facilitate rigorous evaluation of  
26 their implementation and effect on reducing problems such as  
27 public injection of drugs and improperly discarded syringes.”

28 (g) An analysis published in the Journal of Drug Issues in 2016  
29 found that, based on the experience of an OPP in Vancouver, a  
30 proposed program in San Francisco would reduce government  
31 expenses associated with health care, emergency services, and  
32 crime, saving \$2.33 for every dollar spent. It is estimated that one  
33 OPP would save the City and County of San Francisco \$3,500,000  
34 in other costs.

35 (h) As demands for reform of the criminal justice and legal  
36 system reverberate around the country, OPPs offer an alternative  
37 framework for addressing both drug use as well as the enforcement  
38 of drug laws that disproportionately injures communities of color.  
39 OPPs bring people inside to a safe and therapeutic space, instead

1 of leaving them vulnerable to police intervention, arrest, and  
2 incarceration.

3 (i) In July 2020, California law enforcement leadership,  
4 including district attorneys of the Counties of Los Angeles, San  
5 Francisco, Santa Clara, and Contra Costa, signed onto an amicus  
6 brief in support of an OPP in Philadelphia, Pennsylvania, writing,  
7 “The issues are particularly acute at this current moment, with a  
8 global pandemic and fractured relations between law enforcement  
9 and communities. There is an urgent need to fortify trust in the  
10 justice system. Failing to address the loss of life resulting from  
11 drug overdose-and criminalizing a community based public health  
12 organization working to save lives-will further erode trust. If there  
13 were ever a time to demonstrate that the justice system values the  
14 dignity of human life, that time is now.”

15 (j) Also in July 2020, California Attorney General Xavier  
16 Becerra joined an amicus brief with eight other states and the  
17 District of Columbia, in support of an OPP. In the brief, the  
18 attorneys general wrote, “After studying SIS [safe injection  
19 services] interventions in other countries, many states and cities  
20 are considering them as a means of saving lives. The studies predict  
21 that the sites will reduce deaths, the spread of bloodborne diseases,  
22 and costs. And they are a unique solution to the common problem  
23 in many urban areas of rapid, unintended overdoses of heroin or  
24 fentanyl.”

25 (k) It is the intent of the Legislature to promote the health and  
26 safety of communities by evaluating the health impacts of OPPs  
27 in San Francisco, Los Angeles, and Oakland.

28 (l) It is the intent of the Legislature to prevent fatal and nonfatal  
29 drug overdoses, reduce drug use by providing a pathway to drug  
30 treatment, as well as medical and social services for high-risk drug  
31 users, many of whom are homeless, uninsured, or very low income,  
32 prevent the transmission of HIV and hepatitis C, reduce nuisance  
33 and public safety problems related to public use of controlled  
34 substances, and reduce emergency room use and hospital utilization  
35 related to drug use, reserving precious space, including intensive  
36 care beds for treatment of COVID-19 and other life-threatening  
37 conditions.

38 (m) It is the intent of the Legislature that OPPs should be  
39 evaluated in California cities that authorize them, as OPPs show  
40 great promise to save lives, enhance public safety, improve access

1 to substance use disorder treatment, medical care, and related  
2 services, reduce emergency department and hospital utilization  
3 related to drug overdose, and reduce the human, social, and  
4 financial costs of the triple epidemics of drug misuse,  
5 homelessness, and COVID-19.

6 SEC. 2. Section 11376.6 is added to the Health and Safety  
7 Code, to read:

8 11376.6. (a) Notwithstanding any other law, the City and  
9 County of San Francisco, the County of Los Angeles, and the City  
10 of Oakland may approve entities within their jurisdictions to  
11 establish and operate overdose prevention programs that satisfy  
12 the requirements set forth in subdivision (c).

13 (b) Prior to approving an entity within its jurisdiction pursuant  
14 to subdivision (a), the City and County of San Francisco, the  
15 County of Los Angeles, or the City of Oakland shall provide local  
16 law enforcement officials, local public health officials, and the  
17 public with an opportunity to comment in a public meeting. The  
18 notice of the meeting to the public shall be sufficient to ensure  
19 adequate participation in the meeting by the public. The meeting  
20 shall be noticed in accordance with all state laws and local  
21 ordinances, and as local officials deem appropriate.

22 (c) In order for an entity to be approved to operate an overdose  
23 prevention program pursuant to this section, the entity shall  
24 demonstrate that it will, at a minimum:

25 (1) Provide a hygienic space to consume controlled substances  
26 under supervision of staff trained to prevent and treat drug  
27 overdoses.

28 (2) Provide sterile consumption supplies, collect used equipment,  
29 and provide secure hypodermic needle and syringe disposal  
30 services.

31 (3) Monitor participants for potential overdose and provide care  
32 as necessary to prevent fatal overdose.

33 (4) Provide access or referrals to substance use disorder  
34 treatment services, primary medical care, mental health services,  
35 and social services.

36 (5) Educate participants on preventing transmission of HIV and  
37 viral hepatitis.

38 (6) Provide overdose prevention education and access to or  
39 referrals to obtain naloxone hydrochloride or another overdose

1 reversal medication approved by the United States Food and Drug  
2 Administration.

3 (7) Educate participants regarding proper disposal of hypodermic  
4 needles and syringes and provide participants with approved  
5 biohazard containers for syringe disposal.

6 (8) Provide reasonable security of the program site.

7 (9) Establish operating procedures for the program including,  
8 but not limited to, standard hours of operation, training standards  
9 for staff, a minimum number of personnel required to be onsite  
10 during those hours of operation, the maximum number of  
11 individuals who can be served at one time, and an established  
12 relationship with the nearest emergency department of a general  
13 acute care hospital, as well as eligibility criteria for program  
14 participants.

15 (10) Establish and make public a good neighbor policy that  
16 facilitates communication from and to local businesses and  
17 residences, to the extent they exist, to address any neighborhood  
18 concerns and complaints.

19 (d) An entity operating an overdose prevention program under  
20 this section shall provide an annual report to the authorizing  
21 jurisdiction that shall include all of the following:

22 (1) The number of program participants.

23 (2) Aggregate information regarding the characteristics of  
24 program participants.

25 (3) The number of overdoses experienced and the number of  
26 overdoses reversed onsite.

27 (4) The number of persons referred to substance use disorder  
28 treatment, primary medical care, and other services.

29 (e) Notwithstanding any other law, a person or entity, including,  
30 but not limited to, property owners, managers, employees,  
31 volunteers, clients or participants, and employees of the City and  
32 County of San Francisco, the County of Los Angeles, or the City  
33 of Oakland acting in the course and scope of employment, shall  
34 not be arrested, charged, or prosecuted pursuant to Section 11350,  
35 11364, 11365, 11366, 11366.5, or 11377, or subdivision (a) of  
36 Section 11550, including for attempt, aiding and abetting, or  
37 conspiracy to commit a violation of any of those sections, or be  
38 subjected to any civil or administrative penalty or liability,  
39 including property forfeiture or disciplinary action by a professional  
40 licensing board, or otherwise be penalized solely for actions,

1 conduct, or omissions related to the operation of and on the site  
2 of an overdose prevention program approved by the City and  
3 County of San Francisco, the County of Los Angeles, or the City  
4 of Oakland, or for conduct relating to the approval of an entity to  
5 operate an overdose prevention program, or the inspection,  
6 licensing, or other regulation of an overdose prevention program  
7 approved by the City and County of San Francisco, the County of  
8 Los Angeles, or the City of Oakland pursuant to subdivision (a).

9 (f) This section shall remain in effect only until January 1, 2027,  
10 and as of that date is repealed.

11 SEC. 3. The Legislature finds and declares that a special statute  
12 is necessary and that a general statute cannot be made applicable  
13 within the meaning of Section 16 of Article IV of the California  
14 Constitution because of the unique needs of the City and County  
15 of San Francisco, the County of Los Angeles, and the City of  
16 Oakland.