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

LEGISLATIVE COUNSEL’S DIGEST

AB 362, as amended, Eggman. 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, 2026, authorize the City and County of San Francisco to approve entities to operate overdose prevention programs that satisfy specified requirements, including, among other things, the provision of a hygienic space supervised by healthcare professionals.
care professionals, as defined, where adults who use drugs can consume preobtained drugs, use sterile consumption supplies, and access to referrals to substance use disorder treatment. The bill would require the City and County of San Francisco, 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 any entity operating a program to provide an annual report to 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 or conduct on the site of an overdose prevention program for adults authorized by 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 people of the State of California do enact as follows:

SECTION 1. Section 11376.6 is added to the Health and Safety Code, to read:

11376.6. (a) Notwithstanding any other law, the City and County of San Francisco may approve entities within their jurisdiction to establish and operate overdose prevention programs for persons 18 years of age or older that satisfy the requirements set forth in subdivision (c).

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

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

(1) Provide a hygienic space supervised by healthcare professionals where people who use drugs can consume...
preobtained drugs. For purposes of this paragraph, “healthcare professional” includes, but is not limited to, a physician, physician assistant, nurse practitioner, licensed vocational nurse, registered nurse, psychiatrist, psychologist, licensed clinical social worker, licensed professional clinical counselor, mental health provider, social service provider, or substance use disorder provider, trained in overdose recognition and reversal pursuant to Section 1714.22 of the Civil Code.

(2) Provide sterile consumption supplies, collect used hypodermic needles and syringes, and provide secure hypodermic needle and syringe disposal services.

(3) Administer first aid, if needed, monitor participants for potential overdose, and provide treatment as necessary to prevent fatal overdose.

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

(5) Educate participants on the risks of contracting HIV and viral hepatitis.

(6) Provide overdose prevention education and access to or referrals to obtain naloxone hydrochloride or another overdose reversal medication approved by the United States Food and Drug Administration.

(7) Educate participants regarding proper disposal of hypodermic needles and syringes.

(8) Provide reasonable security of the program site.

(9) Establish operating procedures for the program, made available to the public either through an internet website or upon request, that are publicly noticed, including, but not limited to, standard hours of operation, a minimum number of personnel required to be onsite during those hours of operation, the licensing and training standards for staff present, an established maximum number of individuals who can be served at one time, and an established relationship with the nearest emergency department of a general acute care hospital, as well as eligibility criteria for program participants.

(10) Train staff members to deliver services offered by the program.

(11) Establish a good neighbor policy that facilitates communication from and to local businesses and residences, to
the extent they exist, to address any neighborhood concerns and
complaints.
(12) Establish a policy for informing local government officials
and neighbors about the approved entity’s complaint procedures,
and the contact number of the director, manager, or operator of
the approved entity.
(d) An entity operating an overdose prevention program under
this section shall provide an annual report to the city and county,
that shall include all of the following:
(1) The number of program participants.
(2) Aggregate information regarding the characteristics of
program participants.
(3) The number of hypodermic needles and syringes distributed
for use onsite.
(4) The number of overdoses experienced and the number of
overdoses reversed onsite.
(5) The number of persons referred to drug treatment.
(6) The number of individuals directly and formally referred to
other services and the type of service.
(e) Notwithstanding any other law, a person or entity, including,
but not limited to, property owners, managers, employees,
volunteers, and clients or participants, and employees of the City
and County of San Francisco acting in the course and scope of
employment, shall not be arrested, charged, or prosecuted pursuant
to Section 11350, 11364, 11365, 11366, 11366.5, or 11377, or
subdivision (a) of Section 11550, including for attempt, aiding and
abetting, or conspiracy to commit a violation of any of those
sections, or have their property subject to forfeiture, or otherwise
be penalized solely for actions or conduct actions, conduct, or
omissions on the site of an overdose prevention program approved
by the City and County of San Francisco or for conduct relating
to the approval of an entity to operate an overdose prevention
program, or the inspection, licensing, or other regulation of an
overdose prevention program approved by the City and County
of San Francisco pursuant to subdivision (a).
(f) Notwithstanding any other law, a person or entity, including,
but not limited to, property owners, managers, employees,
volunteers, and clients or participants, and employees
of the City and County of San Francisco acting in the course and
scope of employment shall not be subject to civil, administrative,
disciplinary, employment, credentialing, professional discipline, contractual liability, or medical staff action, sanction, or penalty or other liability solely for actions, conduct, or omissions on the site of an overdose prevention program approved by the City and County of San Francisco or for conduct relating to the approval of an entity to operate an overdose prevention program, or the inspection, licensing, or other regulation of an overdose prevention program approved by the City and County of San Francisco pursuant to subdivision (a).

(g) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique needs of the City and County of San Francisco.

REVISIONS:

Heading—Line 4.