

BILL ANALYSIS

C.S.H.B. 2988
By: Capelo
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

During the interim of the 77th Legislative Session, the Health and Human Service Committee assessed the public health preparedness in light of the terrorist attacks of September 11, 2001. Although the federal government appropriated \$59,749,890 to Texas to build the laboratories and infrastructure to prepare for any future health emergency, current laws have not been changed in order to build the infrastructure and delegate authority with a view towards effectively managing a major public health emergency. As proposed, this bill makes a number of changes to the way a public health emergency is to be declared and managed in this state, including guidelines for quarantine measures and the disposal of human remains. In addition, the bill authorizes the commissioner of public health to delegate local health departments authority consistent with that of TDH, and updates the language of the code.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 418.004, Government Code, by adding Subdivision (7) and redesignating existing Subdivision (7) as Subdivision (8), as follows:

- (7) Defines "public health emergency"
- (8) Redesignated from existing Subdivision (7)

SECTION 2. Amends Section 418.014, Government Code, by adding Subsections (f), (g), and (h) as follows:

- (f) Authorizes the governor, in consultation with the commissioner of public health (commissioner), to declare that a state of disaster constitutes a public health emergency to which certain public health emergency provisions apply.
- (g) Authorizes the governor to renew a public health emergency state of disaster one time, for an additional 30 days. Provides that an additional renewal requires the approval of designated legislative leadership.
- (h) Authorizes additional 30 day renewal periods at the expiration of the renewal provided in subsection (g), the requirements and length of time of each renewal.

SECTION 3. Amends Subdivisions (2) and (7), Section 81.003, Health and Safety Code, as follows:

- (2) Redefines "health authority."
- (7) Defines "public health emergency." Deletes the definition for "regional director."

SECTION 4. Amends Section 81.004, Health and Safety Code, by adding Subsection (d), as follows:

- (d) Authorizes a designee of the commissioner to exercise a power or duty of the

commissioner under this chapter except as otherwise required by law.

SECTION 5. Amends Sections 81.023(a)-(c), Health and Safety Code, as follows:

(a) Requires the Texas Department of Health (TDH), rather than the Texas Board of Health (TBH), to develop immunization requirements for children.

(b) Requires TDH, rather than TBH, to cooperate with the Department of Protective and Regulatory Services in creating and implementing immunization requirements for children in child-care facilities.

(c) Requires TDH, rather than TBH, to cooperate with the State Board of Education in creating and implementing immunization requirements for students in public or private primary or secondary schools.

SECTION 6. Transfers Section 81.023(d), Health and Safety Code, to Chapter 81A, Health and Safety Code, redesignates it as Section 81.011, Health and Safety Code, and amends it to read as follows:

Sec. 81.011. New Heading: REQUEST FOR INFORMATION. Authorizes TDH, rather than TBH, to request certain information from Texas Department of Public Safety (DPS) driver's license records for the purpose of notifying individuals that they need certain immunizations or services for suspected communicable diseases in times of emergency or epidemic declared by the commissioner.

SECTION 7. Amends Section 81.041, Health and Safety Code, by adding Subsection (f) to authorize the commissioner, in a public health emergency, to require reports of communicable diseases or other health conditions from providers without TBH rule or action.

SECTION 8. Amends Section 81.042(a), Health and Safety Code, to require a report under Subsection (b), (c), or (d) to be made only to the local health authority, rather than providing the alternative of reporting to the regional director in a case where there is no local health authority.

SECTION 9. Amends Section 81.043, Health and Safety Code, as follows:

Sec. 81.043. New heading: RECORDS AND REPORTS OF HEALTH AUTHORITY. Requires each health authority, rather than each health authority or regional director, to keep a record of each case of a reportable disease reported to the authority, and to report such diseases to TDH's central offices at certain intervals. Makes conforming changes.

SECTION 10. Amends Section 81.046, Health and Safety Code, by amending Subsection (b) and adding Subsection (f), as follows:

(b) Provides that Subsection (f), in addition to Subsections (c) and (d), provides an exception to the provision that certain information relating to cases or suspected cases of diseases or health conditions are not public information under Chapter 522, Government Code, and may not be released or made public on subpoena or otherwise.

(f) Authorizes the release of certain information relating to cases or suspected cases of diseases or health conditions, during a public health emergency, to law enforcement personnel for the sole purpose of protecting the health or life of the person identified by the information.

SECTION 11. Amends Section 81.061, Health and Safety Code, by adding Subsection (d) to authorize a health authority to investigate communicable disease within the boundaries of the authority's jurisdiction to determine the nature of the disease and to formulate control measures used to protect public

health. Requires a person to provide certain information to the authority on request according to the authority's written instructions. Provides that information that is confidential or privileged remains so in the hands of a health authority.

SECTION 12. Amends Section 81.062(a), Health and Safety Code, to authorize a health authority, in addition to TDH, to take certain actions for the purpose of an investigation under Section 81.061(d), in addition to 81.061(c). Authorizes a health authority, in addition to TDH, to request the assistance of certain courts to compel the attendance of a witness or the production of a document at a hearing.

SECTION 13. Amends Section 81.064, Health and Safety Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Authorizes only TDH or a health authority, rather than the commissioner, the commissioner's designee, a health authority, or a health authority's designee, to enter and inspect a public place in the performance of that person's duty to prevent or control a communicable disease's entry into, or spread within, this state under this chapter or rules of the TBH.

(c) Prohibits evidence gathered during an entry by the commissioner, TDH, or health authority from being used in a criminal proceeding other than a proceeding to assess a criminal penalty under this chapter.

SECTION 14. Amends Section 81.065, Health and Safety Code, by creating Subsection (a) from existing text and adding Subsection (b) to prohibit evidence gathered during entry by the commissioner, TDH, or health authority under this section from being used in a criminal proceeding other than a proceeding to assess a criminal penalty under this chapter.

SECTION 15. Amends Section 81.066(a), Health and Safety Code, to provide that a person commits an offense if the person knowingly conceals or attempts to conceal from TDH, rather than TBH, certain facts regarding that person's condition that may threaten public health.

SECTION 16. Amends Section 81.067(a), Health and Safety Code, to provide that a person commits an offense if the person knowingly conceals, removes, or disposes of one of certain items that is the subject of an investigation under this chapter by TDH, rather than TBH.

SECTION 17. Amends Section 81.068, Health and Safety Code, as follows:

Sec. 81.068. New heading: REFUSING ENTRY OR INSPECTION; CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person knowingly refuses or attempts to refuse entry to TDH, rather than TBH, on presentation of a valid search warrant to investigate on premises controlled by the person or the person's agent.

(b) Provides that a person commits an offense if the person knowingly refuses or attempts to refuse inspection under Section 81.064 or entry or access under Section 81.065.

(c) Created from existing Subsection (b).

SECTION 18. Amends Sections 81.082(a) and (b), Health and Safety Code, to grant TDH certain powers previously granted to TBH.

SECTION 19. Amends Section 81.083(e), Health and Safety Code, to add that an individual may be subject to court orders under Subchapter G if the individual is infected or suspected of being infected with a communicable disease that presents an immediate threat to the public health and a public health emergency exists, regardless of whether TDH or a health authority has issued a written order.

SECTION 20. Amends Section 81.084, Health and Safety Code, by amending Subsection (b) and

adding Subsections (d-1) and (k), as follows:

(b) Requires TDH or a health authority to send notice of its action by personal delivery as an alternative to doing so by mail, and to post the notice in a place convenient to the public in the county courthouse, rather than on the county courthouse door, if the property is land or other property on the land. Provides that TDH or the health authority is not required to give notice under this subsection if the property is infected or contaminated as a result of a public health emergency.

(d-1) Authorizes TDH or a health authority to require a person who owns or controls property to impose control measures to decontaminate the property in a public health emergency, and, if that is not possible, further authorizes TDH or a health authority to order the person who owns or controls the property to:

(1) destroy property that is not land in a manner that decontaminates the property to prevent the spread of infection;

(2) securely fence the perimeter of the property or any part of the property that is contaminated, if the property is land; or

(3) securely seal off an infected or contaminated structure or other property on the land to prevent entry until TDH or the health authority authorizes entry.

(k) Authorizes TDH or a health authority to impose additional control measures deemed necessary and appropriate to arrest, control, and eradicate the threat to public health during a public health emergency.

SECTION 21. Amends Section 81.085, Health and Safety Code, by amending Subsections (a), (b), (c), (e), (f), and (h) and adding Subsection (i), as follows:

(a) Authorizes the commissioner to impose an area quarantine upon determining that individuals or property in the area may be infected or contaminated with a communicable disease for a period necessary to determine whether an outbreak of such a disease has occurred.

(b) Requires a health authority to consult with, rather than obtain the approval of, TDH, rather than the commissioner and certain local authorities, before imposing an area quarantine. In addition the health authority imposing a quarantine is required to give written notice to and consult with the governing body of each county and municipality within its jurisdiction affected by the quarantine.

(c) Authorizes TDH to impose additional disease control measures in a quarantine area as TDH deems necessary and appropriate to control the threat to public health. Makes conforming changes.

(e) Makes conforming changes.

(f) Makes conforming changes.

(h) Makes conforming changes.

(i) Requires an area quarantine to be accomplished by the least restrictive means necessary to protect the public health.

SECTION 22. Amends Sections 81.086(b) and (i), Health and Safety Code, as follows:

(b) Removes a provision requiring a carrier or conveyance's owner or operator to provide a statement on a form approved by TBH including information required by board rule. Makes

conforming changes.

(i) Authorizes TDH or a health authority to investigate and, if necessary, hospitalize the individual until TDH or a health authority approves the discharge under Section 81.083, rather than Section 81.084.

SECTION 23. Amends Section 81.088(a), Health and Safety Code, to provide that a person commits an offense if the person knowingly or intentionally removes or alters a quarantine notice or security item in a way that diminishes the item's effectiveness or if the person destroys such an item.

SECTION 24. Amends Section 81.089(a), Health and Safety Code, to provide that a person commits an offense if the person fails to notify TDH, rather than TBH, of certain actions before performing them.

SECTION 25. Amends Section 81.151(d), Health and Safety Code, to require a copy of written orders under Section 81.083 to be filed with an application only if applicable.

SECTION 26. Amends Section 81.152(c), Health and Safety Code, to make conforming changes.

SECTION 27. Amends Section 81.162(a), Health and Safety Code, to make conforming changes.

SECTION 28. Amends Section 161.011, Health and Safety Code, to add a control measure under Chapter 81 as one of several items that a person must obtain in order to enter a private residence to conduct a health inspection.

SECTION 29. Amends Article 49.10(d), Code of Criminal Procedure, to prohibit a justice of the peace to order a person to perform an autopsy on the body of a person whose death was caused by a communicable disease designated by order of the commissioner during a public health emergency under Chapter 418, Government Code.

SECTION 30. Amends Sections 10 and 10a, Article 49.25, Code of Criminal Procedure, as follows:

Sec. 10. Provides that a medical examiner is not required to perform an autopsy on the body of a person whose death was caused by a communicable disease designated by order of the commissioner during a public health emergency under Chapter 418, Government Code.

Sec. 10a. Authorizes the commissioner to designate, by order, other communicable diseases for which cremation within 48 hours of death is authorized. Makes nonsubstantive changes.

SECTION 31. Effective date: September 1, 2003.

SECTION 32. Makes application of the change in law made by this Act to Subsection 81.058(h) and 81.089(a) Health and Safety Code, prospective.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2988 differs from the original by amending two sections. Section 418.014, of the Government Code is amended by adding subsection (h). This subsection authorizes an additional 30 day renewal period at the expiration of the renewal period provided in subsection (g) of Section 418.014. In addition, the subsection lists the requirements and length of time of each renewal. The result of this addition would create unlimited renewal periods if the need exists and the statutory requirements are met.

Section 81.085(b), Government Code is amended by adding language requiring a health authority imposing a quarantine to give written notice to and consult with the governing body of each county and municipality

affected by the quarantine within its jurisdiction.