

By: Allen

H.B. No. 2669

A BILL TO BE ENTITLED

AN ACT

relating to mandatory controlled substance testing for certain persons who are arrested or have been confined for the commission of a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 15.17, Code of Criminal Procedure, is amended by adding Subsection (g) to read as follows:

(g) When a person charged with an offense other than a misdemeanor punishable by fine only is taken before a magistrate under this article, the magistrate shall order the person to submit to a test of the person's breath, blood, or other bodily substance for the purpose of determining the presence of controlled substances in the person's body and shall designate in the order the appropriate local law enforcement agency to supervise the administration of the test. The person shall submit to the test not later than the third day after the day the person appears before the magistrate.

SECTION 2. Chapter 15, Code of Criminal Procedure, is amended by adding Article 15.171 to read as follows:

Art. 15.171. TESTING FOR CONTROLLED SUBSTANCES. A local law enforcement agency designated by a magistrate in an order issued under Article 15.17(g) shall supervise the administration of a test for the purpose of determining the presence of controlled substances in the person's body. The local law enforcement agency

1 shall report the results of the test in writing to the court having  
2 jurisdiction over final disposition of the charges against the  
3 person.

4 SECTION 3. The heading to Chapter 46A, Code of Criminal  
5 Procedure, is amended to read as follows:

6 CHAPTER 46A. CERTAIN HEALTH-RELATED [~~AIDS AND HIV~~] TESTING IN  
7 COUNTY AND MUNICIPAL JAILS

8 SECTION 4. The heading to Article 46A.01, Code of Criminal  
9 Procedure, is amended to read as follows:

10 Art. 46A.01. AIDS TESTING; SEGREGATION; DISCLOSURE.

11 SECTION 5. Chapter 46A, Code of Criminal Procedure, is  
12 amended by adding Article 46A.02 to read as follows:

13 Art. 46A.02. TESTING FOR CONTROLLED SUBSTANCES. An inmate  
14 confined in a county jail after conviction of an offense shall at  
15 the request of the county submit to a test of the inmate's breath,  
16 blood, or other bodily substance for the purpose of determining the  
17 presence of controlled substances in the inmate's body. The county  
18 shall administer the test on or before the seventh day after the day  
19 the inmate is first confined.

20 SECTION 6. Section 500.007, Government Code, is amended to  
21 read as follows:

22 Sec. 500.007. TESTING FOR CONTROLLED SUBSTANCES. (a) An  
23 inmate housed in a facility operated by or under contract with the  
24 department shall at the request of the department submit to a test  
25 of the inmate's breath, blood, or other bodily substance for the  
26 purpose of determining the presence of controlled substances in the  
27 inmate's body. The institutional division shall administer the

1 test during the diagnostic process. The state jail division shall  
2 administer the test on admission of the inmate to a state jail  
3 felony facility.

4       **(b)** The department after consultation with the Criminal  
5 Justice Policy Council shall implement a program to randomly test,  
6 for the purpose of determining the presence of controlled  
7 substances, the breath, blood, or other bodily substances of  
8 inmates housed in facilities operated by or under contract with the  
9 department.

10       ~~[(b)]~~ The department annually shall randomly test not less  
11 than five percent of the inmates housed in facilities operated by or  
12 under contract with the department.

13       (c) The department shall use the most cost-effective means  
14 possible to perform the tests required by this section, and shall  
15 actively seek grants from the federal government or other sources  
16 to expand the program created under Subsection (b) ~~[this section]~~.

17       (d) If the department performs a test described by this  
18 section ~~[Subsection (a)]~~ and determines the presence of a  
19 controlled substance in an inmate, the department may in return for  
20 the cooperation of the inmate in identifying the individual who  
21 delivered the controlled substance to the inmate defer or dismiss  
22 punitive actions, including criminal prosecution, forfeiture of  
23 good conduct time or reduction in good conduct time earning status,  
24 or forfeiture of privileges, that the department could otherwise  
25 take against the inmate.

26       SECTION 7. (a) This Act takes effect September 1, 2003.

27       (b) The change in law made by this Act applies only to a

1 person arrested, or an inmate confined in a correctional facility,  
2 for an offense committed on or after September 1, 2003. A person  
3 arrested, or an inmate confined in a correctional facility, for an  
4 offense committed before September 1, 2003, is covered by the law in  
5 effect when the offense was committed, and the former law is  
6 continued in effect for that purpose. For purposes of this  
7 subsection, an offense was committed before September 1, 2003, if  
8 any element of the offense was committed before that date.