

By: Farrar

H.B. No. 1927

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the requirement that certain offenders undergo testing
3 for AIDS, HIV infection, or related conditions.

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

5 SECTION 1. Article 21.31, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 21.31. AIDS TESTING. (a) A person who is indicted for
8 or who waives indictment for an offense under Section 21.11(a)(1),
9 22.011, or 22.021, Penal Code, shall, at the direction of the court,
10 undergo a medical procedure or test designed to show or help show
11 whether the person has a sexually transmitted disease or has
12 acquired immune deficiency syndrome (AIDS) or human
13 immunodeficiency virus (HIV) infection, antibodies to HIV, or
14 infection with any other probable causative agent of AIDS. The
15 court may direct the person to undergo the procedure or test on its
16 own motion or on the request of the victim of the alleged offense.
17 If the person refuses to submit voluntarily to the procedure or
18 test, the court shall require the person to submit to the procedure
19 or test. The court may require a defendant previously required
20 under this article to undergo a medical procedure or test on
21 indictment for an offense to undergo a subsequent medical procedure
22 or test following conviction of the offense. The person performing
23 the procedure or test shall make the test results available to the
24 local health authority, and the local health authority shall be

1 required to make the notification of the test result to the victim
2 of the alleged offense and to the defendant.

3 (b) A person who is charged with an offense under Section
4 43.02, 43.03, or 43.04, Penal Code, shall, at the direction of the
5 court, undergo in the manner provided by Subsection (a) a medical
6 procedure or test designed to show or help show whether the person
7 has a condition described by that subsection. The court shall
8 provide notice regarding the test results in writing to the person
9 and, if the person is married or cohabiting with a sexual partner,
10 to the person's spouse or sexual partner. The person charged with
11 the offense shall pay the costs of testing and of notification under
12 this subsection.

13 (c) The state may not use the fact that a medical procedure
14 or test was performed on a person under this article [~~subsection~~] or
15 use the results of the procedure or test in any criminal proceeding
16 arising out of the alleged offense.

17 (d) [~~(b)~~] Testing under this article [~~section~~] shall be
18 conducted in accordance with written infectious disease control
19 protocols adopted by the Texas Board of Health that clearly
20 establish procedural guidelines that provide criteria for testing
21 and that respect the rights of the person accused and any victim
22 [~~the victims~~] of the alleged offense.

23 (e) This article does not permit [~~(c) Nothing in this~~
24 ~~section would allow~~] a court to release a test result to anyone
25 other than those specifically authorized by this law, and the
26 provisions of Section 81.103(d), Health and Safety Code, may
27 [~~shall~~] not be construed to allow that [~~such~~] disclosure.

1 SECTION 2. The change in law made by this Act applies only
2 to a person charged with an offense committed on or after the
3 effective date of this Act. A person charged with an offense
4 committed before the effective date of this Act is covered by the
5 law in effect when the offense was committed, and the former law is
6 continued in effect for that purpose. For purposes of this section,
7 an offense is committed before the effective date of this Act if any
8 element of the offense occurs before the effective date.

9 SECTION 3. This Act takes effect September 1, 2005.