

## **BILL ANALYSIS**

H.B. 1194  
By: England  
Civil Practices  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

State law requires offenders incarcerated in the Texas Department of Criminal Justice to provide a specimen for inclusion in DNA database administered by the Department of Public Safety, and authorizes TDCJ to use force if necessary to collect the sample. Medical staff working on TDCJ correctional facilities collect blood samples from offenders, but do not participate in the forcible collection of a DNA sample. In those instances when force is necessary to obtain a sample for the DNA database, the Texas Department of Criminal Justice contracts with phlebotomists to collect the sample. As current state law does not indemnify the contract phlebotomist if an offender files suit, some contract phlebotomists have expressed concern about potential litigation. Providing indemnification to TDCJ's contract phlebotomists would assist the agency in obtaining the services needed to comply with state law regarding DNA collection. House Bill 1194 adds phlebotomists to the list of persons who are indemnified by the state.

### **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 104.001, Civil Practice and Remedies Code by adding (3-a) which adds licensed phlebotomists to the list of persons who are indemnified by the state in a cause of action based on certain conduct.

SECTION 2. States this act is not retroactive, but applies only to a cause of action that occurs on or after the effective date.

### **EFFECTIVE DATE**

SECTION 3. Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.