

## **BILL ANALYSIS**

C.S.S.B. 810  
By: Janek  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current statute places the primary responsibility for preparing for and responding to large-scale public health emergencies, such as pandemic influenza, with local authorities. However, certain provisions limit a regional health authority's ability to enact necessary prevention and containment strategies quickly and effectively at the outset of a large-scale public health emergency.

C.S.S.B. 810 enables effective preparation for and response to a public health disaster on the part of a local health authority.

### **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**

[While statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services (DSHS), as the successor agency to TDH.]

SECTION 1. Amends Section 81.082, Health and Safety Code, by adding Subsection (c-1), to authorize a health authority to designate health care facilities within its jurisdiction that are capable of providing certain services during a public health disaster or during an area quarantine under Section 81.085 (Area Quarantine; Criminal Penalty). Prohibits a health authority from designating a nursing home or other institution licensed under Chapter 242 (Convalescent And Nursing Homes And Related Institutions).

SECTION 2. Amends Section 81.083, Health and Safety Code, by adding Subsections (k) and (l), as follows:

(k) Authorizes the DSHS or health authority, if they have a reasonable cause to believe that a group of five or more individuals has been exposed to or infected with a communicable disease, to order the members of the group to implement measures that are reasonable and necessary to prevent the introduction, transmission, and spread of the disease in Texas. Provides that each member of the group is subject to the requirements of this section if DSHS or the health authority adopts control measures under this subsection.

(l) Provides that an order under Subsection (k) must be in writing and be delivered personally or by registered or certified mail to each member of the group, or the member's parent, legal guardian, or managing conservator if the member is a minor. Provides that the department or health authority must publish notice in a certain newspapers with specified information if the name, address, and county of residence of any group member is unknown at the time the order is issued.

SECTION 3. Amends Section 81.151, Health and Safety Code, by adding Subsection (e), to authorize a single application to be filed for a group if certain criteria is met.

SECTION 4. Amends Subchapter G, Chapter 81, Health and Safety Code, by adding Section 81.1511, as follows:

Sec. 81.1511. APPLICABILITY OF SUBCHAPTER TO GROUP. Provides that the provisions of this subchapter apply to a group in the same manner as they apply to an individual with certain exceptions, to the extent possible, and except as otherwise provided, if a group application is filed under Section 81.151(e).

SECTION 5. Amends Section 81.152, Health and Safety Code, by adding Subsection (d), to require a group application to contain certain information according to the applicant's information and belief.

SECTION 6. Amends Subchapter G, Chapter 81, Health and Safety Code, by adding Section 81.1531, as follows:

Sec. 81.1531. APPOINTMENT OF ATTORNEY FOR GROUP. (a) Requires a judge to appoint an attorney to represent a group identified in a group application under Section 81.151(e) and to appoint an attorney for each person who is listed in the application if requested by a person in the group who does not have an attorney.

(b) Provides that the provisions of this chapter that apply to an individual's attorney apply to a group's attorney.

SECTION 7. Amends Section 81.159(a), Health and Safety Code, to prohibit the commissioner of public health (commissioner) from designating an intermediate care facility for the mentally retarded required to be licensed under Chapter 252 (Intermediate Care Facilities For The Mentally Retarded), as capable of providing specific services for persons having or suspected of having a communicable disease.

SECTION 8. Amends Section 81.162, Health and Safety Code, by adding Subsections (f) and (g), as follows:

(f) Authorizes a judge or magistrate to issue a temporary protective custody order under certain circumstances before the filing of an application for a court order for the management of a person with a communicable disease under Section 81.151 (Application for Court Order), notwithstanding Section 81.161 (Motion for Order of Protective Custody) or Subsection (c) (relating to the judge's or magistrate's determination whether a person meets certain criteria).

(g) Provides that a temporary protective custody order issued under Subsection (f) to continue only until 4 p.m. on the first business day after the date the order is issued unless the application for the court order for the management of a person with a communicable disease and a motion for protective custody, as described by Subsection (f)(1), are filed at or before that time. Authorizes the temporary protective custody order to continue for the period reasonably necessary for the court to rule on the motion for protective custody if the application and motion are filed at or before 4 p.m. on the first business day after the date the order is issued.

SECTION 9. Amends Sections 81.165(b) and (d), Health and Safety Code, as follows:

(b) Authorizes the judge or magistrate to postpone a hearing if the area in which the person is found, or the area where the hearing will be held, is under a public health disaster until the period of disaster is ended.

(d) Authorizes the magistrate or master to order that a person entitled to a hearing for a protective custody order is prohibited to appear in person and is only authorized to appear by teleconference or another means to allow the person to speak, to interact with witnesses, and to confer with the person's attorney, if the health advisory advises the court that the person is required to remain in isolation or quarantine and that exposure to the judge, jurors, or the public would jeopardize the health and safety of those persons and the public health.

SECTION 10. Amends Sections 81.167(b) and (c), Health and Safety Code, as follows:

(b) Requires a person under a protective custody order to be detained in an appropriate inpatient health facility that has been designated by the commissioner or by a health authority and selected by the health authority under Section 81.159.

(c) Prohibits a person from being detained in a nonmedical facility under this subsection for longer than 72 hours, except under certain circumstances, including the duration of a public health disaster.

SECTION 11 Amends Section 81.168(c), Health and Safety Code, to make a conforming change.

SECTION 12. Amends Section 81.169, Health and Safety Code, by adding Subsection (i), as follows:

(i) Authorizes a judge to order that a person entitled to a hearing is prohibited to appear in person and is only authorized to appear by teleconference or another means that the judge finds appropriate to allow the person to speak, to interact with witnesses, and to confer with the person's attorney if the health authority advises the court that the person is required to remain in isolation or quarantine and that exposure to the judge, jurors, or the public would jeopardize the health and safety of those persons and the public health, notwithstanding Subsection (d).

SECTION 13. Amends Section 81.176, Health and Safety Code, to make a conforming change.

SECTION 14. Amends Section 81.177, Health and Safety Code, as follows:

Sec. 81.177. COMMITMENT TO PRIVATE FACILITY. (a) Creates this subsection from existing text.

(b) Authorizes the court to order a person committed to a private health care facility at no expense to the state, a county, a municipality, or a hospital district during certain circumstances, consistent with Subsection (a).

(c) Ensures that a health care facility that accepts a person under this section is not prevented from pursuing reimbursement from any appropriate source, such as a third-party public or private payor or disaster relief fund

### **EFFECTIVE DATE**

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

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

Amends language in 81.177(b), Health and Safety Code, striking language that says "Notwithstanding Subsection (a) and Section 81.175(e)" and replacing it with "Consistent with Subsection (a)".

Amends language in 81.177(c), Health and Safety Code, striking language that says, "The head of the private facility designated under Subsection (b) shall accept responsibility with respect to the person who is committed to that facility" and replacing it with "Nothing in this section prevents a health care facility that accepts a person under this section from pursuing reimbursement from any appropriate source, such as a third-party public or private payor or disaster relief fund".