

1-1 By: Janek S.B. No. 810  
1-2 (In the Senate - Filed February 22, 2007; March 7, 2007,  
1-3 read first time and referred to Committee on Health and Human  
1-4 Services; April 2, 2007, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-6 April 2, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 810 By: Janek

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to control measures and court orders for management of  
1-11 persons with communicable diseases.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 81.082, Health and Safety Code, is  
1-14 amended by adding Subsection (c-1) to read as follows:

1-15 (c-1) A health authority may designate health care  
1-16 facilities within the health authority's jurisdiction that are  
1-17 capable of providing services for the examination, observation,  
1-18 quarantine, isolation, treatment, or imposition of control  
1-19 measures during a public health disaster or during an area  
1-20 quarantine under Section 81.085. A health authority may not  
1-21 designate a nursing home or other institution licensed under  
1-22 Chapter 242.

1-23 SECTION 2. Section 81.083, Health and Safety Code, is  
1-24 amended by adding Subsections (k) and (l) to read as follows:

1-25 (k) If the department or a health authority has reasonable  
1-26 cause to believe that a group of five or more individuals has been  
1-27 exposed to or infected with a communicable disease, the department  
1-28 or health authority may order the members of the group to implement  
1-29 control measures that are reasonable and necessary to prevent the  
1-30 introduction, transmission, and spread of the disease in this  
1-31 state. If the department or health authority adopts control  
1-32 measures under this subsection, each member of the group is subject  
1-33 to the requirements of this section.

1-34 (l) An order under Subsection (k) must be in writing and be  
1-35 delivered personally or by registered or certified mail to each  
1-36 member of the group, or the member's parent, legal guardian, or  
1-37 managing conservator if the member is a minor. If the name,  
1-38 address, and county of residence of any member of the group is  
1-39 unknown at the time the order is issued, the department or health  
1-40 authority must publish notice in a newspaper of general circulation  
1-41 in the county that includes the area of the suspected exposure and  
1-42 any other county in which the department or health authority  
1-43 suspects a member of the group resides. The notice must contain the  
1-44 following information:

1-45 (1) that the department or health authority has  
1-46 reasonable cause to believe that a group of individuals is ill with,  
1-47 has been exposed to, or is the carrier of a communicable disease;

1-48 (2) the suspected time and place of exposure to the  
1-49 disease;

1-50 (3) a copy of any orders under Subsection (k);

1-51 (4) instructions to an individual to provide the  
1-52 individual's name, address, and county of residence to the  
1-53 department or health authority if the individual knows or  
1-54 reasonably suspects that the individual was at the place of the  
1-55 suspected exposure at the time of the suspected exposure;

1-56 (5) that the department or health authority may  
1-57 request that an application for court orders under Subchapter G be  
1-58 filed for the group, if applicable; and

1-59 (6) that a criminal penalty applies to an individual  
1-60 who:

1-61 (A) is a member of the group; and

1-62 (B) knowingly refuses to perform or allow the  
1-63 performance of the control measures in the order.

2-1 SECTION 3. Section 81.151, Health and Safety Code, is  
2-2 amended by adding Subsection (e) to read as follows:

2-3 (e) A single application may be filed for a group if:  
2-4 (1) the department or health authority reasonably  
2-5 suspects that a group of five or more persons has been exposed to or  
2-6 infected with a communicable disease; and  
2-7 (2) each person in the group meets the criteria of this  
2-8 chapter for court orders for the management of a person with a  
2-9 communicable disease.

2-10 SECTION 4. Subchapter G, Chapter 81, Health and Safety  
2-11 Code, is amended by adding Section 81.1511 to read as follows:

2-12 Sec. 81.1511. APPLICABILITY OF SUBCHAPTER TO GROUP. To the  
2-13 extent possible, and except as otherwise provided, if a group  
2-14 application is filed under Section 81.151(e), the provisions of  
2-15 this subchapter apply to the group in the same manner as they apply  
2-16 to an individual, except that:

2-17 (1) except as provided by Subdivision (2), any  
2-18 statement or determination regarding the conduct or status of a  
2-19 person must be made in regard to the majority of the members of the  
2-20 group;

2-21 (2) any finding or statement related to compliance  
2-22 with orders under Section 81.083 must be made for the entire group;

2-23 (3) any notice required to be provided to a person  
2-24 must:

2-25 (A) in addition to being sent to each individual  
2-26 in the group for whom the department or health authority has an  
2-27 address, be published in a newspaper of general circulation in the  
2-28 county that includes the area of the suspected contamination and  
2-29 any other county in which the department or health authority  
2-30 suspects a member of the group resides;

2-31 (B) state that the group is appointed an attorney  
2-32 but that a member of the group is entitled to the member's own  
2-33 attorney on request; and

2-34 (C) include instructions for any person who  
2-35 reasonably suspects that the person was at the place of the  
2-36 suspected exposure at the time of the suspected exposure to provide  
2-37 the person's name, address, and county of residence to the  
2-38 department or health authority; and

2-39 (4) an affidavit of medical evaluation for the group  
2-40 may be based on evaluation of one or more members of the group if the  
2-41 physician reasonably believes that the condition of the individual  
2-42 or individuals represents the condition of the majority of the  
2-43 members of the group.

2-44 SECTION 5. Section 81.152, Health and Safety Code, is  
2-45 amended by adding Subsection (d) to read as follows:

2-46 (d) A group application must contain the following  
2-47 information according to the applicant's information and belief:

2-48 (1) a description of the group and the location where  
2-49 the members of the group may be found;

2-50 (2) a narrative of how the group has been exposed or  
2-51 infected;

2-52 (3) an estimate of how many persons are included in the  
2-53 group;

2-54 (4) to the extent known, a list containing the name,  
2-55 address, and county of residence in this state of each member of the  
2-56 group;

2-57 (5) if the applicant is unable to obtain the name and  
2-58 address of each member of the group:

2-59 (A) a statement that the applicant has sought  
2-60 each of the unknown names and addresses; and

2-61 (B) the reason that the names and addresses are  
2-62 unavailable; and

2-63 (6) a statement, to be included only in an application  
2-64 for inpatient treatment, that the members of the group fail or  
2-65 refuse to comply with written orders of the department or health  
2-66 authority under Section 81.083, if applicable.

2-67 SECTION 6. Subchapter G, Chapter 81, Health and Safety  
2-68 Code, is amended by adding Section 81.1531 to read as follows:

2-69 Sec. 81.1531. APPOINTMENT OF ATTORNEY FOR GROUP. (a) A

3-1 judge shall appoint an attorney to represent a group identified in a  
 3-2 group application under Section 81.151(e) and shall appoint an  
 3-3 attorney for each person who is listed in the application if  
 3-4 requested by a person in the group who does not have an attorney.

3-5 (b) To the extent possible, the provisions of this chapter  
 3-6 that apply to an individual's attorney apply to a group's attorney.

3-7 SECTION 7. Subsection (a), Section 81.159, Health and  
 3-8 Safety Code, is amended to read as follows:

3-9 (a) The commissioner shall designate health care facilities  
 3-10 throughout the state that are capable of providing services for the  
 3-11 examination, observation, isolation, or treatment of persons  
 3-12 having or suspected of having a communicable disease. However, the  
 3-13 commissioner may not designate:

3-14 (1) a nursing home or custodial care home required to  
 3-15 be licensed under Chapter 242; or

3-16 (2) an intermediate care facility for the mentally  
 3-17 retarded required to be licensed under Chapter 252.

3-18 SECTION 8. Section 81.162, Health and Safety Code, is  
 3-19 amended by adding Subsections (f) and (g) to read as follows:

3-20 (f) Notwithstanding Section 81.161 or Subsection (c), a  
 3-21 judge or magistrate may issue a temporary protective custody order  
 3-22 before the filing of an application for a court order for the  
 3-23 management of a person with a communicable disease under Section  
 3-24 81.151 if:

3-25 (1) the judge or magistrate takes testimony that an  
 3-26 application under Section 81.151, together with a motion for  
 3-27 protective custody under Section 81.161, will be filed with the  
 3-28 court on the next business day; and

3-29 (2) the judge or magistrate determines based on  
 3-30 evidence taken under Subsection (d) that there is probable cause to  
 3-31 believe that the person presents a substantial risk of serious harm  
 3-32 to himself or others to the extent that the person cannot be at  
 3-33 liberty pending the filing of the application and motion.

3-34 (g) A temporary protective custody order issued under  
 3-35 Subsection (f) may continue only until 4 p.m. on the first business  
 3-36 day after the date the order is issued unless the application for a  
 3-37 court order for the management of a person with a communicable  
 3-38 disease and a motion for protective custody, as described by  
 3-39 Subsection (f)(1), are filed at or before that time. If the  
 3-40 application and motion are filed at or before 4 p.m. on the first  
 3-41 business day after the date the order is issued, the temporary  
 3-42 protective custody order may continue for the period reasonably  
 3-43 necessary for the court to rule on the motion for protective  
 3-44 custody.

3-45 SECTION 9. Subsections (b) and (d), Section 81.165, Health  
 3-46 and Safety Code, are amended to read as follows:

3-47 (b) The hearing must be held not later than 72 hours after  
 3-48 the time that the person was detained under the protective custody  
 3-49 order. If the period ends on a Saturday, Sunday, or legal holiday,  
 3-50 the hearing must be held on the next day that is not a Saturday,  
 3-51 Sunday, or legal holiday. The judge or magistrate may postpone the  
 3-52 hearing for an additional 24 hours if the judge or magistrate  
 3-53 declares that an extreme emergency exists because of extremely  
 3-54 hazardous weather conditions that threaten the safety of the person  
 3-55 or another essential party to the hearing. If the area in which the  
 3-56 person is found, or the area where the hearing will be held, is  
 3-57 under a public health disaster, the judge or magistrate may  
 3-58 postpone the hearing until the period of disaster is ended.

3-59 (d) The person and his attorney shall have an opportunity at  
 3-60 the hearing to appear and present evidence to challenge the  
 3-61 allegation that the person presents a substantial risk of serious  
 3-62 harm to himself or others. If the health authority advises the  
 3-63 court that the person must remain in isolation or quarantine and  
 3-64 that exposure to the judge, jurors, or the public would jeopardize  
 3-65 the health and safety of those persons and the public health, a  
 3-66 magistrate or a master may order that a person entitled to a hearing  
 3-67 for a protective custody order may not appear in person and may  
 3-68 appear only by teleconference or another means the magistrate or  
 3-69 master finds appropriate to allow the person to speak, to interact

4-1 with witnesses, and to confer with the person's attorney.

4-2 SECTION 10. Subsections (b) and (c), Section 81.167, Health  
4-3 and Safety Code, are amended to read as follows:

4-4 (b) A person under a protective custody order shall be  
4-5 detained in an appropriate inpatient health facility that has been  
4-6 designated by the commissioner or by a health authority and  
4-7 selected by the health authority under Section 81.159.

4-8 (c) A person under a protective custody order may be  
4-9 detained in a nonmedical facility used to detain persons who are  
4-10 charged with or convicted of a crime only with the consent of the  
4-11 medical director of the facility and only if the facility has  
4-12 respiratory isolation capability for airborne communicable  
4-13 diseases. The person may not be detained in a nonmedical facility  
4-14 under this subsection for longer than 72 hours, excluding  
4-15 Saturdays, Sundays, legal holidays, [~~and~~] the period prescribed by  
4-16 Section 81.165(b) for an extreme weather emergency, and the  
4-17 duration of a public health disaster. The person must be isolated  
4-18 from any person who is charged with or convicted of a crime.

4-19 SECTION 11. Subsection (c), Section 81.168, Health and  
4-20 Safety Code, is amended to read as follows:

4-21 (c) The head of a facility shall discharge a person held  
4-22 under a protective custody order if:

4-23 (1) the head of the facility does not receive notice  
4-24 within 72 hours after detention begins, excluding Saturdays,  
4-25 Sundays, legal holidays, [~~and~~] the period prescribed by Section  
4-26 81.165(b) for an extreme weather emergency, and the duration of a  
4-27 public health disaster, that a probable cause hearing was held and  
4-28 the person's continued detention was authorized;

4-29 (2) a final court order for the management of a person  
4-30 with a communicable disease has not been entered within the time  
4-31 prescribed by Section 81.154; or

4-32 (3) the health authority or commissioner determines  
4-33 that the person no longer meets the criteria for protective custody  
4-34 prescribed by Section 81.162.

4-35 SECTION 12. Section 81.169, Health and Safety Code, is  
4-36 amended by adding Subsection (i) to read as follows:

4-37 (i) Notwithstanding Subsection (d), if the health authority  
4-38 advises the court that the person must remain in isolation or  
4-39 quarantine and that exposure to the judge, jurors, or the public  
4-40 would jeopardize the health and safety of those persons and the  
4-41 public health, a judge may order that a person entitled to a hearing  
4-42 may not appear in person and may appear only by teleconference or  
4-43 another means that the judge finds appropriate to allow the person  
4-44 to speak, to interact with witnesses, and to confer with the  
4-45 person's attorney.

4-46 SECTION 13. Section 81.176, Health and Safety Code, is  
4-47 amended to read as follows:

4-48 Sec. 81.176. DESIGNATION OF FACILITY. In a court order for  
4-49 the temporary or extended management of a person with a  
4-50 communicable disease specifying inpatient care, the court shall  
4-51 commit the person to a health care facility designated by the  
4-52 commissioner or a health authority in accordance with Section  
4-53 81.159.

4-54 SECTION 14. Section 81.177, Health and Safety Code, is  
4-55 amended to read as follows:

4-56 Sec. 81.177. COMMITMENT TO PRIVATE FACILITY. (a) The  
4-57 court may order a person committed to a private health care facility  
4-58 at no expense to the state if the court receives:

4-59 (1) an application signed by the person or the person's  
4-60 guardian or next friend requesting that the person be placed in a  
4-61 designated private health care facility at the person's or  
4-62 applicant's expense; and

4-63 (2) a written agreement from the head of the private  
4-64 health care facility to admit the person and to accept  
4-65 responsibility for the person in accordance with this chapter.

4-66 (b) Notwithstanding Subsection (a) and Section 81.175(e),  
4-67 the court may order a person committed to a private health care  
4-68 facility at no expense to the state, a county, a municipality, or a  
4-69 hospital district if:

5-1                   (1) a state of disaster or a public health disaster has  
5-2 been declared or an area quarantine is imposed under Section  
5-3 81.085;

5-4                   (2) the health care facility is located within the  
5-5 disaster area or area quarantine, as applicable; and

5-6                   (3) the judge determines that there is no public  
5-7 health care facility within the disaster area or area quarantine,  
5-8 as applicable, that has appropriate facilities and the capacity  
5-9 available to receive and treat the person.

5-10                  (c) The head of the private facility designated under  
5-11 Subsection (b) shall accept responsibility with respect to the  
5-12 person who is committed to that facility.

5-13                  SECTION 15. This Act takes effect immediately if it  
5-14 receives a vote of two-thirds of all the members elected to each  
5-15 house, as provided by Section 39, Article III, Texas Constitution.  
5-16 If this Act does not receive the vote necessary for immediate  
5-17 effect, this Act takes effect September 1, 2007.

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