

## **BILL ANALYSIS**

H.B. 1985  
By: Martinez Fischer  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The painful emotions felt by a victim of sexual assault are often exacerbated by the worry of having been infected by the perpetrator with a deadly or harmful sexually transmitted disease. Current law provides that a court may direct an alleged offender to undergo testing for AIDS and HIV, however, there is no time limit as to when such a test must be completed. If a victim requests that an alleged offender be tested, the Texas criminal justice system should help to address the victim's uncertainty as quickly as possible to alleviate some of the victim's fears.

H.B. 1985 requires a court, on the request of the victim of an alleged sexual assault offense, to order the defendant to undergo a test for AIDS, HIV, or a related condition no later than 48 hours after the indictment is presented to the defendant or the defendant waives the indictment.

### **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**

H.B. 1985 amends the Code of Criminal Procedure to require, rather than authorize, a court on request of the victim of certain alleged sexual offenses, to order a defendant to undergo a medical procedure or test to show or help show whether the defendant has a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), or human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. The bill requires the court to order the defendant to undergo the procedure or test not later than 48 hours after an indictment for the offense is presented against the defendant or the defendant waives indictment. The bill provides that, if the victim requests the defendant testing and a law enforcement agency is unable to locate the defendant during the 48-hour period allowed for that testing, the running of the 48-hour period is tolled until the agency locates the defendant and the defendant is present in the jurisdiction. The bill requires the court to order the defendant to undergo any necessary additional testing within a reasonable time after the results of an initial medical procedure or test are released if those results are positive for HIV or AIDS.

### **EFFECTIVE DATE**

September 1, 2009.