

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 2556
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

"Select agents" are defined by federal law as agents or toxins that the United States Department of Health and Human Services considers potentially dangerous to human health (42 C.F.R. 73). Examples include: Ebola virus, anthrax, West Nile virus, Rift Valley fever virus, and other deadly substances. These select agents pose a threat to human health both through natural occurrence and as potential bioterrorism agents. Development of methods to detect, prevent, and treat infections with these agents is urgent; substantial research is underway, including at The University of Texas Medical Branch-Galveston's (UTMB-Galveston) National Lab, to ensure protection of the population from the devastating impacts that would occur if these agents were used in bioterrorism.

Because of the high potential for use of these agents in terrorism, current federal law prohibits any federal agency from disclosing information on select agents, including their use, location, transfer arrangements, and the identity or location of any specific person possessing, using, or transferring such agents. The federal confidentiality law, which was written into the Federal Freedom of Information Act, only applies to federal agencies and subsequently does not apply to UTMB-Galveston's Lab as it is designated as a state facility.

UTMB-Galveston has received an open records request for information on all transfer agreements regarding the select agents it is studying. Release of this information would pose a serious threat to homeland security, as it would substantially increase the ability of potential bioterrorists to obtain the agents.

This bill amends the Texas Open Records Act to track federal law by making all select agent information confidential. This amendment is urgently needed in order to prevent unretractable release of this information, and is vital to homeland security. Once this information is released, it can be posted on the Internet and be distributed without restriction.

C.S.S.B. 2556 relates to the confidentiality of information pertaining to certain biological agents and toxins.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 552, Government Code, by adding Section 552.151, as follows:

Sec. 552.151. EXCEPTION: INFORMATION REGARDING SELECT AGENTS. Provides that information that pertains to a biological agent or toxin identified or listed as a select agent in federal law, including the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188), and regulations adopted under that Act, is confidential and excepted from the requirements of Section 552.021 (Availability of Public Information), including information pertaining to the location of a select agent, security and safeguard protections, site-specific or transfer-specific documentation, or the identity of an individual authorized to possess, use, or access a select agent.

SECTION 2. Provides that Section 552.151, Government Code, as added by this Act, applies in relation to:

(1) a request for public information under Chapter 552 (Public Information), Government Code, made before, on, or after the effective date of this Act; and

(2) information that on the effective date of this Act has not been disclosed that was the subject of a request for information made before the effective date of this Act, and the attorney general determined before the effective date of this Act to be subject to disclosure under Chapter 552, Government Code.

SECTION 3. Effective date: upon passage or September 1, 2009.