

## **BILL ANALYSIS**

H.B. 1690  
By: Fletcher  
Homeland Security & Public Safety  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

During a recent two-year period, it was reported that Harris County had the highest number of tuberculosis cases in Texas. Interested parties note that while current law authorizes a certain Harris County public health official to perform health authority duties to limit the spread of tuberculosis, including measures to prevent, control, and treat the disease, the county's management of a recent tuberculosis case illuminated several gaps in the communicable disease control laws that impede effective administration of these duties. These gaps include limited authority of law enforcement to apprehend a person who is under a protective custody order, lack of authority to deploy emergency medical services personnel when medically indicated, limitations on a health authority to prevent exposure to tuberculosis when such a case requires isolation or quarantine measures, and insufficient penalties for noncompliance with protective custody orders by an individual. H.B. 1690 seeks to expand law enforcement authority for communicable disease control purposes, allow a health authority to order emergency medical services when clinically indicated, limit tuberculosis exposure during court proceedings, and establish criminal penalties for noncompliance with certain protective custody orders.

### **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 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

H.B. 1690 amends the Health and Safety Code to authorize a peace officer, including a sheriff or constable, to use reasonable force to secure the members of a group subject to an order to implement communicable disease control measures and, except as directed by the Department of State Health Services (DSHS) or a health authority, to prevent the members from leaving the group or other individuals from joining the group; to secure a property subject to a court order to place the property in quarantine and, except as directed by DSHS or a health authority, prevent an individual from entering or leaving the property; and to secure a quarantine area and, except as directed by DSHS or a health authority, to prevent an individual from entering or leaving the quarantine area.

H.B. 1690 authorizes a judge or magistrate to direct a peace officer, including a sheriff or

constable, to prevent a person who is the subject of a protective custody order from leaving the facility designated to detain the person if the court finds that a threat to the public health exists because the person may attempt to leave the facility. The bill includes a sheriff or constable among the peace officers who may be directed by a temporary protective order or by a protective custody order to take a person infected with a communicable disease that presents an immediate threat to the public into protective custody and transport the person immediately to an appropriate inpatient health facility. The bill authorizes such an order to direct an emergency medical services provider to provide an ambulance and staff to immediately transport the person who is the subject of the order to an appropriate inpatient health facility designated by the order or other suitable facility and authorizes the provider to seek reimbursement for the costs of the transport from any appropriate source.

H.B. 1690 authorizes a judge to order that a person entitled to a hearing on a request for reexamination of an order for extended management may not appear in person and may appear only 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 DSHS or a health authority advises the court that the person must remain in isolation or quarantine and that exposure to the judge or the public would jeopardize the health and safety of those persons and the public health.

H.B. 1690 makes it a Class A misdemeanor offense for a person who is subject to a protective custody order or temporary detention order issued by a court relating to the management of a communicable disease to resist or evade apprehension by a sheriff, constable, or other peace officer enforcing the order or to resist or evade transport to an appropriate inpatient health care facility or other suitable facility under the order. The bill makes it a Class A misdemeanor offense to assist a person who is subject to such an order in resisting or evading apprehension by a sheriff, constable, or other peace officer enforcing the order or in resisting or evading transport to an appropriate inpatient health care facility or other suitable facility under the order.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.