

BILL ANALYSIS

C.S.H.B. 1595
By: Murr
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that current law requires a detainee to be tested for infectious diseases if the detainee's bodily fluids come into contact with a peace officer, provided the contact was instigated by the detainee, and requires that notification of the test results be provided to the peace officer. However, these parties believe that current law does not adequately provide the same protection for magistrates or correctional facility employees. C.S.H.B. 1595 seeks to remedy this situation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 1595 amends the Code of Criminal Procedure to include a person arrested for a misdemeanor or felony who causes the person's bodily fluids to come into contact with certain individuals during a judicial proceeding or initial period of confinement following the arrest or during the person's confinement after conviction or adjudication resulting from the arrest among the defendants or confined persons required to undergo testing for communicable diseases at the direction of a court with jurisdiction over the person. The bill includes a magistrate or a correctional facility employee among the persons whose contact with a defendant or confined person's bodily fluids triggers the requirement for the defendant or confined person to undergo testing for a communicable disease, on whose request a court may direct the defendant or confined person to undergo testing, and who must be notified regarding the test results.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1595 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. The heading to Article 18.22, Code of Criminal Procedure, is amended.

SECTION 2. Article 18.22, Code of Criminal Procedure, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) A person who is arrested for a misdemeanor or felony and who during the commission of that offense or the [an] arrest, during a judicial proceeding or initial period of confinement following the arrest, or during the person's confinement after a conviction or adjudication resulting from the arrest [commission of that offense] causes the person's bodily fluids to come into contact with a peace officer, a magistrate, or an employee of a correctional facility where the person is confined [to come into contact with the person's bodily fluids] shall, at the direction of the court having jurisdiction over the arrested person, undergo a medical procedure or test designed to show or help show whether the person has a communicable disease. The court may direct the person to undergo the procedure or test on its own motion or on the request of the peace officer, magistrate, or correctional facility employee. If the person refuses to submit voluntarily to the procedure or test, the court shall require the person to submit to the procedure or test. Notwithstanding any other law, the person performing the procedure or test shall make the test results available to the local health authority, and the local health authority shall notify the peace officer, magistrate, or correctional facility employee, as appropriate, of the test result. The state may not use the fact that a medical procedure or test was performed on a person under this article, or use the results of the procedure or test, in any criminal proceeding arising out of the alleged offense.

(b) Testing under this article shall be conducted in accordance with written infectious disease control protocols adopted by the Texas Medical Board [of Health] that clearly establish procedural guidelines that provide criteria for testing and that respect the rights of the arrested person and the peace officer, magistrate, or correctional

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Article 18.22, Code of Criminal Procedure, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) A person who is arrested for a misdemeanor or felony and who during the commission of that offense or the [an] arrest, during a judicial proceeding or initial period of confinement following the arrest, or during the person's confinement after a conviction or adjudication resulting from the arrest [commission of that offense] causes the person's bodily fluids to come into contact with a peace officer, a magistrate, or an employee of a correctional facility where the person is confined [to come into contact with the person's bodily fluids] shall, at the direction of the court having jurisdiction over the arrested person, undergo a medical procedure or test designed to show or help show whether the person has a communicable disease. The court may direct the person to undergo the procedure or test on its own motion or on the request of the peace officer, magistrate, or correctional facility employee. If the person refuses to submit voluntarily to the procedure or test, the court shall require the person to submit to the procedure or test. Notwithstanding any other law, the person performing the procedure or test shall make the test results available to the local health authority, and the local health authority shall notify the peace officer, magistrate, or correctional facility employee, as appropriate, of the test result. The state may not use the fact that a medical procedure or test was performed on a person under this article, or use the results of the procedure or test, in any criminal proceeding arising out of the alleged offense.

(b) Testing under this article shall be conducted in accordance with written infectious disease control protocols adopted by the Department [Texas Board] of State Health Services that clearly establish procedural guidelines that provide criteria for testing and that respect the rights of the arrested person and the peace officer,

facility employee.

(d) In this article, "correctional facility" means:

(1) any place described by Section 1.07(a)(14), Penal Code; or

(2) a "secure correctional facility" or "secure detention facility" as those terms are defined by Section 51.02, Family Code.

SECTION 3. The change in law made by this Act applies to a motion by the court or request of a magistrate or correctional facility employee made on or after the effective date of this Act, regardless of whether the offense for which the person was arrested or the applicable contact with bodily fluids occurred before, on, or after that date.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

magistrate, or correctional facility employee.

(d) In this article, "correctional facility" means:

(1) any place described by Section 1.07(a)(14), Penal Code; or

(2) a "secure correctional facility" or "secure detention facility" as those terms are defined by Section 51.02, Family Code.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.