

By: Martinez

H.B. No. 2770

Substitute the following for H.B. No. 2770:

By: Schaefer

C.S.H.B. No. 2770

A BILL TO BE ENTITLED

AN ACT

1
2 relating to emergency response employees or volunteers and others
3 exposed or potentially exposed to certain diseases or parasites.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article 18.22(a), Code of Criminal Procedure, is
6 amended to read as follows:

7 (a) A person who is arrested for a misdemeanor or felony and
8 who during the commission of that offense or an arrest following the
9 commission of that offense causes an emergency response employee or
10 volunteer, as defined by Section 81.003, Health and Safety Code, [a
11 peace officer] to come into contact with the person's bodily fluids
12 shall, at the direction of the court having jurisdiction over the
13 arrested person, undergo a medical procedure or test designed to
14 show or help show whether the person has a communicable disease.
15 The court may direct the person to undergo the procedure or test on
16 its own motion or on the request of the emergency response employee
17 or volunteer [peace officer]. If the person refuses to submit
18 voluntarily to the procedure or test, the court shall require the
19 person to submit to the procedure or test. Notwithstanding any
20 other law, the person performing the procedure or test shall make
21 the test results available to the local health authority and the
22 designated infection control officer of the entity that employs or
23 uses the services of the affected emergency response employee or
24 volunteer, and the local health authority or the designated

1 infection control officer of the affected employee or volunteer
2 shall notify the emergency response employee or volunteer [~~peace~~
3 ~~officer~~] of the test result. The state may not use the fact that a
4 medical procedure or test was performed on a person under this
5 article, or use the results of the procedure or test, in any
6 criminal proceeding arising out of the alleged offense.

7 SECTION 2. Section 607.102, Government Code, is amended to
8 read as follows:

9 Sec. 607.102. NOTIFICATION. An [~~A firefighter or~~
10 emergency response employee or volunteer, as defined by Section
11 81.003, Health and Safety Code, [medical technician] who is exposed
12 to methicillin-resistant Staphylococcus aureus or a disease caused
13 by a select agent or toxin identified or listed under 42 C.F.R.
14 Section 73.3 is entitled to receive notification of the exposure in
15 the manner prescribed by Section 81.048, Health and Safety Code.

16 SECTION 3. Section 81.003, Health and Safety Code, is
17 amended by adding Subdivisions (1-a) and (1-b) and amending
18 Subdivision (8) to read as follows:

19 (1-a) "Emergency response employee or volunteer"
20 means an individual acting in the course and scope of employment or
21 service as a volunteer as emergency medical service personnel, a
22 peace officer, a detention officer, a county jailer, or a fire
23 fighter.

24 (1-b) "Designated infection control officer" means
25 the person serving as an entity's designated infection control
26 officer under Section 81.012.

27 (8) "Reportable disease" means a [~~includes only a~~]

1 disease that is designated as [~~or condition included in the list of~~]
2 reportable under Section 81.048 [~~diseases~~].

3 SECTION 4. Subchapter A, Chapter 81, Health and Safety
4 Code, is amended by adding Sections 81.012 and 81.013 to read as
5 follows:

6 Sec. 81.012. DESIGNATED INFECTION CONTROL OFFICER. (a) An
7 entity that employs or uses the services of an emergency response
8 employee or volunteer shall nominate a designated infection control
9 officer and an alternate designated infection control officer to:

10 (1) receive notification of a potential exposure to a
11 reportable disease from a health care facility;

12 (2) notify the appropriate health care providers of a
13 potential exposure to a reportable disease;

14 (3) act as a liaison between the entity's emergency
15 response employees or volunteers who may have been exposed to a
16 reportable disease during the course and scope of employment or
17 service as a volunteer and the destination hospital of the patient
18 who was the source of the potential exposure;

19 (4) investigate and evaluate an exposure incident,
20 using current evidence-based information on the possible risks of
21 communicable disease presented by the exposure incident; and

22 (5) monitor all follow-up treatment provided to the
23 affected emergency response employee or volunteer, in accordance
24 with applicable federal, state, and local law.

25 (b) The executive commissioner by rule shall prescribe the
26 qualifications required for a person to be eligible to be
27 designated as an infection control officer under this section. The

1 qualifications must include a requirement that the person be
2 trained as a health care provider or have training in the control of
3 infectious and communicable diseases.

4 (c) The entity that employs or uses the services of an
5 emergency response employee or volunteer is responsible for
6 notifying the local health authorities or local health care
7 facilities, according to any local rules or procedures, that the
8 entity has a designated infection control officer or alternate
9 designated infection control officer.

10 Sec. 81.013. CONSIDERATION OF FEDERAL LAW AND REGULATIONS.
11 The executive commissioner shall review the Ryan White HIV/AIDS
12 Treatment Extension Act of 2009 (Pub. L. No. 111-87) or any
13 successor law and any regulations adopted under the law and
14 determine whether adopting by rule any part of the federal law or
15 regulations is in the best interest of the state to further achieve
16 the purposes of this chapter. If the executive commissioner
17 determines that adopting the federal law or regulations is in the
18 best interest of the state to further achieve the purposes of this
19 chapter, the executive commissioner may by rule adopt all or a part
20 of the federal law or regulations.

21 SECTION 5. Section 81.046(c), Health and Safety Code, is
22 amended to read as follows:

23 (c) Medical or epidemiological information may be released:

24 (1) for statistical purposes if released in a manner
25 that prevents the identification of any person;

26 (2) with the consent of each person identified in the
27 information;

1 (3) to medical personnel treating the individual,
2 appropriate state agencies in this state or another state, a health
3 authority or local health department in this state or another
4 state, or federal, county, or district courts to comply with this
5 chapter and related rules relating to the control and treatment of
6 communicable diseases and health conditions or under another state
7 or federal law that expressly authorizes the disclosure of this
8 information;

9 (4) to appropriate federal agencies, such as the
10 Centers for Disease Control and Prevention of the United States
11 Public Health Service, but the information must be limited to the
12 name, address, sex, race, and occupation of the patient, the date of
13 disease onset, the probable source of infection, and other
14 requested information relating to the case or suspected case of a
15 communicable disease or health condition; ~~[or]~~

16 (5) to medical personnel to the extent necessary in a
17 medical emergency to protect the health or life of the person
18 identified in the information; or

19 (6) to a designated infection control officer.

20 SECTION 6. The heading to Section 81.048, Health and Safety
21 Code, is amended to read as follows:

22 Sec. 81.048. NOTIFICATION OF EMERGENCY RESPONSE EMPLOYEE OR
23 VOLUNTEER [~~PERSONNEL, PEACE OFFICERS, DETENTION OFFICERS, COUNTY~~
24 ~~JAILERS, AND FIRE FIGHTERS~~].

25 SECTION 7. Sections 81.048(b) and (c), Health and Safety
26 Code, and Section 81.048(g), Health and Safety Code, as amended by
27 S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are

1 amended to read as follows:

2 (b) Notice of a positive or negative test result for a
3 reportable disease designated under Subsection (a) shall be given
4 to an emergency response employee or volunteer [~~medical service~~
5 ~~personnel, peace officer, detention officer, county jailer, or fire~~
6 ~~fighter~~] as provided by this section if:

7 (1) the emergency response employee or volunteer
8 [~~medical service personnel, peace officer, detention officer,~~
9 ~~county jailer, or fire fighter~~] delivered a person to a hospital as
10 defined by Section 74.001, Civil Practice and Remedies Code;

11 (2) the hospital has knowledge that the person has a
12 reportable disease and has medical reason to believe that the
13 person had the disease when the person was admitted to the hospital;
14 and

15 (3) the emergency response employee or volunteer
16 [~~medical service personnel, peace officer, detention officer,~~
17 ~~county jailer, or fire fighter~~] was exposed to the reportable
18 disease during the course and scope of the person's employment or
19 service as a volunteer [~~of duty~~].

20 (c) Notice of the possible exposure shall be given:

21 (1) by the hospital to the local health authority;

22 (2) by the hospital to the designated infection
23 control officer of [~~local health authority to the director of the~~
24 ~~appropriate department of~~] the entity that employs or uses the
25 services of the affected emergency response employee or volunteer
26 [~~emergency medical service personnel, peace officer, detention~~
27 ~~officer, county jailer, or fire fighter~~]; and

1 (3) by the local health authority or the designated
2 infection control officer of the entity that employs or uses the
3 services of the affected emergency response employee or volunteer
4 [~~director~~] to the employee or volunteer affected.

5 (g) A hospital that gives notice of a possible exposure
6 under Subsection (c) or a local health authority or designated
7 infection control officer that receives notice of a possible
8 exposure under Subsection (c) may give notice of the possible
9 exposure to a person other than the affected emergency response
10 employee or volunteer [~~emergency medical personnel, a peace~~
11 ~~officer, a detention officer, a county jailer, or a fire fighter~~] if
12 the person demonstrates that the person was exposed to the
13 reportable disease while providing emergency care. The executive
14 commissioner shall adopt rules to implement this subsection.

15 SECTION 8. Section 81.050(b), Health and Safety Code, as
16 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
17 2015, and Section 81.050(h), Health and Safety Code, are amended to
18 read as follows:

19 (b) A person whose occupation or whose volunteer service is
20 included in one or more of the following categories may request the
21 department or a health authority to order testing of another person
22 who may have exposed the person to a reportable disease:

- 23 (1) a law enforcement officer;
- 24 (2) a fire fighter;
- 25 (3) an emergency medical service employee or
26 paramedic;
- 27 (4) a correctional officer;

1 (5) an employee, contractor, or volunteer, other than
2 a correctional officer, who performs a service in a correctional
3 facility as defined by Section 1.07, Penal Code, or a secure
4 correctional facility or secure detention facility as defined by
5 Section 51.02, Family Code; ~~or~~

6 (6) an employee of a juvenile probation department; or

7 (7) any other emergency response employee or
8 volunteer.

9 (h) The department or the department's designee shall
10 inform the person who requested the order and the designated
11 infection control officer of the person who requested the order, if
12 that person is an emergency response employee or volunteer, of the
13 results of the test. If the person subject to the order is found to
14 have a reportable disease, the department or the department's
15 designee shall inform that person and the person who requested the
16 order of the need for medical follow-up and counseling services.
17 The department or the department's designee shall develop protocols
18 for coding test specimens to ensure that any identifying
19 information concerning the person tested will be destroyed as soon
20 as the testing is complete.

21 SECTION 9. Sections 81.095(a) and (b), Health and Safety
22 Code, are amended to read as follows:

23 (a) In a case of accidental exposure of a health care worker
24 to blood or other body fluids of a patient in a licensed hospital,
25 the hospital, following a report of the exposure incident, shall
26 take reasonable steps to test the patient for hepatitis B, ~~or~~
27 hepatitis C, HIV, or any reportable disease.

1 (b) This subsection applies only in a case of accidental
2 exposure of certified emergency medical services personnel, an
3 emergency response employee or volunteer [~~a firefighter, a peace~~
4 ~~officer~~], or a first responder who renders assistance at the scene
5 of an emergency or during transport to the hospital to blood or
6 other body fluids of a patient who is transported to a licensed
7 hospital. The hospital receiving the patient, following a report
8 of the exposure incident, shall take reasonable steps to test the
9 patient for hepatitis B, ~~or~~ hepatitis C, HIV, or any reportable
10 disease if the report shows there is significant risk to the person
11 exposed. The organization that employs the person or for which the
12 person works as a volunteer in connection with rendering the
13 assistance is responsible for paying the costs of the test. The
14 hospital shall provide the test results to the department or to the
15 local health authority and to the designated infection control
16 officer of the entity employing or using the services of an affected
17 emergency response employee or volunteer, which are responsible for
18 following the procedures prescribed by Section 81.050(h) to inform
19 the person exposed and, if applicable, the patient regarding the
20 test results. The hospital shall follow applicable reporting
21 requirements prescribed by Subchapter C. This subsection does not
22 impose a duty on a hospital to provide any further testing,
23 treatment, or services or to perform further procedures.

24 SECTION 10. Section 81.0955(a), Health and Safety Code, and
25 Section 89.055(b), Health and Safety Code, as amended by S.B. 219,
26 Acts of the 84th Legislature, Regular Session, 2015, are amended to
27 read as follows:

1 (a) This section applies only to the accidental exposure to
2 the blood or other body fluids of a person who dies at the scene of
3 an emergency or during transport to the hospital involving an
4 emergency response employee or volunteer [~~certified emergency~~
5 ~~medical services personnel, a firefighter, a peace officer,~~] or
6 another [a] first responder who renders assistance at the scene of
7 an emergency or during transport of a person to the hospital.

8 (b) A hospital, certified emergency medical services
9 personnel, a justice of the peace, a medical examiner, or a
10 physician on behalf of the person exposed, following a report of the
11 exposure incident, shall take reasonable steps to have [~~test~~] the
12 deceased person tested for reportable [~~communicable~~] diseases. The
13 hospital, certified emergency medical services personnel, justice
14 of the peace, medical examiner, or physician shall provide the test
15 results to the department or to the local health authority and to
16 the designated infection control officer of an affected emergency
17 response employee or volunteer responsible for following the
18 procedures prescribed by Section 81.050(h) to inform the person
19 exposed, and, if applicable, the department or the local health
20 authority shall inform the next of kin of the deceased person
21 regarding the test results. The hospital, certified emergency
22 medical services personnel, medical examiner, or physician shall
23 follow applicable reporting requirements prescribed by Subchapter
24 C. This subsection does not impose a duty on a hospital, certified
25 emergency medical services personnel, a medical examiner, or a
26 physician to provide any further testing, treatment, or services or
27 to perform further procedures. This subsection does not impose a

1 duty on a justice of the peace to order that further testing,
2 treatment, or services be provided or further procedures be
3 performed. The executive commissioner shall adopt rules to
4 implement this subsection.

5 SECTION 11. Section 81.103(b), Health and Safety Code, is
6 amended to read as follows:

7 (b) A test result may be released to:

8 (1) the department under this chapter;

9 (2) a local health authority if reporting is required
10 under this chapter;

11 (3) the Centers for Disease Control and Prevention of
12 the United States Public Health Service if reporting is required by
13 federal law or regulation;

14 (4) the physician or other person authorized by law
15 who ordered the test;

16 (5) a physician, nurse, or other health care personnel
17 who have a legitimate need to know the test result in order to
18 provide for their protection and to provide for the patient's
19 health and welfare;

20 (6) the person tested or a person legally authorized
21 to consent to the test on the person's behalf;

22 (7) the spouse of the person tested if the person tests
23 positive for AIDS or HIV infection, antibodies to HIV, or infection
24 with any other probable causative agent of AIDS;

25 (8) a person authorized to receive test results under
26 Article 21.31, Code of Criminal Procedure, concerning a person who
27 is tested as required or authorized under that article;

1 (9) a person exposed to HIV infection as provided by
2 Section 81.050; [~~and~~]

3 (10) a county or district court to comply with this
4 chapter or rules relating to the control and treatment of
5 communicable diseases and health conditions; and

6 (11) a designated infection control officer of an
7 affected emergency response employee or volunteer.

8 SECTION 12. Section 81.107(a), Health and Safety Code, as
9 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
10 2015, is amended to read as follows:

11 (a) In a case of accidental exposure to blood or other body
12 fluids under Section 81.102(a)(5)(D), the health care agency or
13 facility may test a person who may have exposed the health care
14 worker or other emergency response employee or volunteer to HIV
15 without the person's specific consent to the test.

16 SECTION 13. Not later than December 1, 2015, the executive
17 commissioner of the Health and Human Services Commission shall
18 adopt the rules required by Section 81.012, Health and Safety Code,
19 as added by this Act.

20 SECTION 14. This Act takes effect September 1, 2015.