

By: Martinez

H.B. No. 2770

A BILL TO BE ENTITLED

AN ACT

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

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

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

(a) A person who is arrested for a misdemeanor or felony and who during the commission of that offense or an arrest following the commission of that offense causes an emergency response employee or volunteer, as defined by Section 81.003, Health and Safety Code, [~~a peace officer~~] 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 emergency response employee or volunteer [~~peace officer~~]. 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 designated infection control officer of the affected emergency response employee or volunteer, and the local health authority or the designated infection control officer of the affected employee

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

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

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

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

18 (1-a) "Emergency response employee or volunteer"
19 means an individual acting in the course and scope of employment or
20 service as a volunteer as emergency medical service personnel, a
21 peace officer, a detention officer, a county jailer, or a fire
22 fighter.

23 (1-b) "Executive commissioner" means the executive
24 commissioner of the Health and Human Services Commission.

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

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

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

8 (1) receive notification of a potential exposure to an
9 infectious disease from a health care facility;

10 (2) notify the appropriate health care providers of a
11 potential exposure to an infectious disease;

12 (3) act as a liaison between the entity's emergency
13 response employees or volunteers who may have been exposed to a
14 reportable disease during the course and scope of employment or
15 service as a volunteer;

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

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

22 (b) The executive commissioner shall adopt rules for the
23 department to approve the designated infection control officer and
24 alternate designated infection control officer nominated under
25 Subsection (a).

26 Sec. 81.013. CONSIDERATION OF FEDERAL LAW AND REGULATIONS.

27 The executive commissioner shall review the Ryan White HIV/AIDS

1 Treatment Extension Act of 2009 (Pub. L. No. 111-87) or any
2 successor law and any regulations adopted under the law and
3 determine whether adopting by rule any part of the federal law or
4 regulations is in the best interest of the state to further achieve
5 the purposes of this chapter. If the executive commissioner
6 determines that adopting the federal law or regulations is in the
7 best interest of the state to further achieve the purposes of this
8 chapter, the executive commissioner may by rule adopt all or a part
9 of the federal law or regulations.

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

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

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

15 (2) with the consent of each person identified in the
16 information;

17 (3) to medical personnel treating the individual,
18 appropriate state agencies in this state or another state, a health
19 authority or local health department in this state or another
20 state, or federal, county, or district courts to comply with this
21 chapter and related rules relating to the control and treatment of
22 communicable diseases and health conditions or under another state
23 or federal law that expressly authorizes the disclosure of this
24 information;

25 (4) to appropriate federal agencies, such as the
26 Centers for Disease Control and Prevention of the United States
27 Public Health Service, but the information must be limited to the

1 name, address, sex, race, and occupation of the patient, the date of
2 disease onset, the probable source of infection, and other
3 requested information relating to the case or suspected case of a
4 communicable disease or health condition; ~~[or]~~

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

8 (6) to a designated infection control officer.

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

11 Sec. 81.048. NOTIFICATION OF EMERGENCY RESPONSE EMPLOYEE OR
12 VOLUNTEER ~~[PERSONNEL, PEACE OFFICERS, DETENTION OFFICERS, COUNTY~~
13 ~~JAILERS, AND FIRE FIGHTERS]~~.

14 SECTION 7. Sections 81.048(b), (c), and (g), Health and
15 Safety Code, are amended to read as follows:

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

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

25 (2) the hospital has knowledge that the person has a
26 reportable disease and has medical reason to believe that the
27 person had the disease when the person was admitted to the hospital;

1 and

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

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

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

9 (2) by the hospital to the designated infection
10 control officer of [~~local health authority to the director of the~~
11 ~~appropriate department of~~] the entity that employs or uses the
12 services of the affected emergency response employee or volunteer
13 [~~emergency medical service personnel, peace officer, detention~~
14 ~~officer, county jailer, or fire fighter~~]; and

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

19 (g) A hospital that gives notice of a possible exposure
20 under Subsection (c) or a local health authority or designated
21 infection control officer that receives notice of a possible
22 exposure under Subsection (c) may give notice of the possible
23 exposure to a person other than the affected emergency response
24 employee or volunteer [~~emergency medical personnel, a peace~~
25 ~~officer, a detention officer, a county jailer, or a fire fighter~~] if
26 the person demonstrates that the person was exposed to the
27 reportable disease while providing emergency care. The executive

1 commissioner [~~of the Health and Human Services Commission~~] shall
2 adopt rules to implement this subsection.

3 SECTION 8. Sections 81.050(b) and (h), Health and Safety
4 Code, are amended to read as follows:

5 (b) A person whose occupation or whose volunteer service is
6 included in one or more of the following categories may request the
7 department or a health authority to order testing of another person
8 who may have exposed the person to a reportable disease, including
9 HIV infection:

10 (1) a law enforcement officer;

11 (2) a fire fighter;

12 (3) an emergency medical service employee or
13 paramedic;

14 (4) a correctional officer;

15 (5) an employee, contractor, or volunteer, other than
16 a correctional officer, who performs a service in a correctional
17 facility as defined by Section 1.07, Penal Code, or a secure
18 correctional facility or secure detention facility as defined by
19 Section 51.02, Family Code; ~~or~~

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

21 (7) any other emergency response employee or
22 volunteer.

23 (h) The department or the department's designee shall
24 inform the person who requested the order and the designated
25 infection control officer of the person who requested the order, if
26 that person is an emergency response employee or volunteer, of the
27 results of the test. If the person subject to the order is found to

1 have a reportable disease, the department or the department's
2 designee shall inform that person and the person who requested the
3 order of the need for medical follow-up and counseling services.
4 The department or the department's designee shall develop protocols
5 for coding test specimens to ensure that any identifying
6 information concerning the person tested will be destroyed as soon
7 as the testing is complete.

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

10 (a) In a case of accidental exposure of a health care worker
11 to blood or other body fluids of a patient in a licensed hospital,
12 the hospital, following a report of the exposure incident, shall
13 take reasonable steps to test the patient for hepatitis B, ~~[or]~~
14 hepatitis C, HIV, or any reportable disease or parasite.

15 (b) This subsection applies only in a case of accidental
16 exposure of certified emergency medical services personnel, an
17 emergency response employee or volunteer [~~a firefighter, a peace~~
18 ~~officer~~], or a first responder who renders assistance at the scene
19 of an emergency or during transport to the hospital to blood or
20 other body fluids of a patient who is transported to a licensed
21 hospital. The hospital receiving the patient, following a report
22 of the exposure incident, shall take reasonable steps to test the
23 patient for hepatitis B, ~~[or]~~ hepatitis C, HIV, or any reportable
24 disease or parasite if the report shows there is significant risk to
25 the person exposed. The organization that employs the person or for
26 which the person works as a volunteer in connection with rendering
27 the assistance is responsible for paying the costs of the test. The

1 hospital shall provide the test results to the department or to the
2 local health authority and to the designated infection control
3 officer of the entity employing or using the services of an affected
4 emergency response employee or volunteer, which are responsible for
5 following the procedures prescribed by Section 81.050(h) to inform
6 the person exposed and, if applicable, the patient regarding the
7 test results. The hospital shall follow applicable reporting
8 requirements prescribed by Subchapter C. This subsection does not
9 impose a duty on a hospital to provide any further testing,
10 treatment, or services or to perform further procedures.

11 SECTION 10. Sections 81.0955(a) and (b), Health and Safety
12 Code, are amended to read as follows:

13 (a) This section applies only to the accidental exposure to
14 the blood or other body fluids of a person who dies at the scene of
15 an emergency or during transport to the hospital involving an
16 emergency response employee or volunteer [~~certified emergency~~
17 ~~medical services personnel, a firefighter, a peace officer,~~] or
18 another [a] first responder who renders assistance at the scene of
19 an emergency or during transport of a person to the hospital.

20 (b) A hospital, certified emergency medical services
21 personnel, justice of the peace, medical examiner, or a physician
22 on behalf of the person exposed, following a report of the exposure
23 incident, shall take reasonable steps to have [~~test~~] the deceased
24 person tested for communicable diseases. The hospital, certified
25 emergency medical services personnel, justice of the peace, medical
26 examiner, or physician shall provide the test results to the
27 department or to the local health authority and to the designated

1 infection control officer of an affected emergency response
2 employee or volunteer responsible for following the procedures
3 prescribed by Section 81.050(h) to inform the person exposed. If
4 ~~[and, if]~~ applicable, the department or the local health authority
5 shall inform the next of kin of the deceased person regarding the
6 test results. The hospital, certified emergency medical services
7 personnel, or physician shall follow applicable reporting
8 requirements prescribed by Subchapter C. This subsection does not
9 impose a duty on a hospital, certified emergency medical services
10 personnel, medical examiner, or a physician to provide any further
11 testing, treatment, or services or to perform further procedures.
12 This subsection does not impose a duty on a justice of the peace to
13 order that further testing, treatment, or services be provided or
14 further procedures be performed. The executive commissioner ~~[of the~~
15 ~~Health and Human Services Commission]~~ shall adopt rules to
16 implement this subsection.

17 SECTION 11. Section 81.102(c), Health and Safety Code, is
18 amended to read as follows:

19 (c) Protocols adopted under Subsection (a)(5)(D)
20 ~~[(a)(4)(D)]~~ must clearly establish procedural guidelines with
21 criteria for testing that respect the rights of the person with the
22 infection and the person who may be exposed to that infection. The
23 protocols may not require the person who may have been exposed to be
24 tested and must ensure the confidentiality of the person with the
25 infection in accordance with this chapter.

26 SECTION 12. Section 81.103(b), Health and Safety Code, is
27 amended to read as follows:

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

2 (1) the department under this chapter;

3 (2) a local health authority if reporting is required
4 under this chapter;

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

8 (4) the physician or other person authorized by law
9 who ordered the test;

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

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

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

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

22 (9) a person exposed to HIV infection as provided by
23 Section 81.050; ~~and~~

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

27 (11) a designated infection control officer of an

1 affected emergency response employee or volunteer.

2 SECTION 13. Section 81.107(a), Health and Safety Code, is
3 amended to read as follows:

4 (a) In a case of accidental exposure to blood or other body
5 fluids under Section 81.102(a)(5)(D) [~~81.102(a)(4)(D)~~], the health
6 care agency or facility may test a person who may have exposed the
7 health care worker or other emergency response employee or
8 volunteer to HIV without the person's specific consent to the test.

9 SECTION 14. Not later than December 1, 2015, the executive
10 commissioner of the Health and Human Services Commission shall
11 adopt the rules required by Section 81.012, Health and Safety Code,
12 as added by this Act.

13 SECTION 15. This Act takes effect September 1, 2015.