

By: Schwertner, et al.

S.B. No. 538

A BILL TO BE ENTITLED

AN ACT

relating to the control of infectious diseases.

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

SECTION 1. Chapter 418, Government Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. STATE OF INFECTIOUS DISEASE EMERGENCY

Sec. 418.031. DECLARATION OF STATE OF INFECTIOUS DISEASE EMERGENCY. (a) The governor by executive order or proclamation may declare a state of infectious disease emergency if the governor, in consultation with the commissioner of state health services and the division, finds that an infectious disease poses a serious and imminent risk to the health and safety of the citizens of this state. An infectious disease poses a serious and imminent risk under this subsection if the commissioner determines that:

(1) the disease has resulted or is likely to result in severe or life-threatening illness or death for those infected with the disease; and

(2) the disease is not contained by current public health and medical interventions and is resulting in a high rate of morbidity or mortality.

(b) An executive order or proclamation issued under this section must include the name of the infectious disease and a description of the threat to public health and safety.

(c) An executive order or proclamation shall be

1 disseminated promptly by means intended to bring its contents to  
2 the attention of the general public. An order or proclamation  
3 shall be filed promptly with the division and the secretary of  
4 state.

5 Sec. 418.032. DURATION OF STATE OF EMERGENCY. (a) Except  
6 as provided by this section, a state of emergency under this  
7 subchapter expires 30 days after the date the executive order or  
8 proclamation declaring the state of infectious disease emergency is  
9 issued.

10 (b) The governor may set a shorter period for the infectious  
11 disease state of emergency if the governor, in consultation with  
12 the commissioner of state health services and the division,  
13 determines that a shorter period is adequate and appropriate for  
14 the control of the infectious disease.

15 (c) The governor may, by executive order or proclamation,  
16 terminate the state of infectious disease emergency if the  
17 governor, in consultation with the commissioner of state health  
18 services and the division, finds that there is no longer a serious  
19 and imminent risk to the health and safety of the citizens of this  
20 state.

21 (d) The governor may, by executive order or proclamation,  
22 declare successive states of emergency, each not exceeding 30 days,  
23 if the governor, in consultation with the commissioner of state  
24 health services and the division, finds that the extension of the  
25 infectious disease state of emergency is necessary to protect the  
26 health and safety of the citizens of this state.

27 Sec. 418.033. EFFECT OF DECLARATION. (a) An executive

1 order or proclamation declaring a state of infectious disease  
2 emergency gives the commissioner of state health services authority  
3 for all state and local public health policy decisions, procedures,  
4 and disease control measures necessary to contain the infectious  
5 disease emergency. The commissioner shall communicate with and  
6 consider input from local health authorities.

7 (b) The division shall issue specific statewide  
8 preparedness guidelines and procedures for local health and  
9 emergency management authorities in the case of a state of  
10 infectious disease emergency.

11 Sec. 418.034. RULES. The executive commissioner of the  
12 Health and Human Services Commission or the public safety director  
13 of the department may adopt rules necessary for carrying out the  
14 purposes of this subchapter.

15 SECTION 2. Section 81.008, Health and Safety Code, is  
16 amended to read as follows:

17 Sec. 81.008. COMMUNICABLE DISEASE IN ANIMALS; EXCHANGE OF  
18 INFORMATION. (a) If the department or a local health authority  
19 has reasonable cause to believe that an animal has been infected  
20 with, has been exposed to, or is the carrier of a communicable  
21 disease, the department, local health authority, or Texas Animal  
22 Health Commission may obtain a sample of the animal's blood or other  
23 bodily fluid to perform a test for an infectious disease without:

24 (1) the permission of the animal's owner; or

25 (2) a control order under Section 81.084.

26 (b) The Texas Animal Health Commission and the Texas A&M  
27 [University] Veterinary Medical Diagnostic Laboratory shall each

1 adopt by rule a memorandum of understanding with the department to  
2 exchange information on communicable diseases in animals.

3 SECTION 3. Section 81.046, Health and Safety Code, is  
4 amended by amending Subsection (b) and adding Subsection (f-1) to  
5 read as follows:

6 (b) Reports, records, and information relating to cases or  
7 suspected cases of diseases or health conditions are not public  
8 information under Chapter 552, Government Code, and may not be  
9 released or made public on subpoena or otherwise except as provided  
10 by Subsections (c), (d), ~~and~~ (f), and (f-1).

11 (f-1) The department may release to a first responder, as  
12 defined by Section 421.095, Government Code, or a local health  
13 authority a person's name and the address of the person's current  
14 location if:

15 (1) the department reasonably believes that the person  
16 is infected with, has been exposed to, or is the carrier of a  
17 communicable disease; and

18 (2) the communicable disease poses a serious health  
19 risk to first responders that do not wear the appropriate personal  
20 protective equipment.

21 SECTION 4. Section 81.083, Health and Safety Code, is  
22 amended by amending Subsections (a), (b), and (e) and adding  
23 Subsection (d-1) to read as follows:

24 (a) Any person, including a physician, who examines or  
25 treats an individual who has a communicable disease, or the  
26 department or a local health authority, shall instruct the  
27 individual about:

1           (1) measures for preventing reinfection and spread of  
2 the disease; and

3           (2) the necessity for treatment until the individual  
4 is cured or free from the infection.

5           (b) If the department or a health authority has reasonable  
6 cause to believe that an individual is infected [~~ill~~] with, has been  
7 exposed to, or is the carrier of a communicable disease, the  
8 department or health authority may order the individual, or the  
9 individual's parent, legal guardian, or managing conservator if the  
10 individual is a minor, to implement control measures that are  
11 reasonable and necessary to prevent the introduction,  
12 transmission, and spread of the disease in this state. The order  
13 may require the individual to remain in a health care facility or  
14 other location, including the individual's home.

15           (d-1) A peace officer, including a sheriff or constable, may  
16 use reasonable force to:

17                 (1) secure an individual subject to an order issued  
18 under Subsection (b); and

19                 (2) except as directed by the department or the health  
20 authority, prevent the individual from leaving the facility or  
21 other location designated in the order.

22           (e) An individual may be subject to emergency detention  
23 under Section 81.0891 or court orders under Subchapter G if the  
24 individual is infected with, has been exposed to, or is the carrier  
25 of or is reasonably suspected of being infected with, having been  
26 exposed to, or being the carrier of a communicable disease that  
27 presents an immediate threat to the public health and:

1           (1) the individual, or the individual's parent, legal  
2 guardian, or managing conservator if the individual is a minor,  
3 does not comply with the written orders of the department or a  
4 health authority under this section; or

5           (2) a public health disaster exists, regardless of  
6 whether the department or health authority has issued a written  
7 order and the individual has indicated that the individual will not  
8 voluntarily comply with control measures.

9           SECTION 5. Section 81.084(j), Health and Safety Code, is  
10 amended to read as follows:

11           (j) In this section, "property" means:

- 12           (1) an object;  
13           (2) a parcel of land; [~~or~~]  
14           (3) an animal; or  
15           (4) a structure[~~, animal,~~] or other property on a  
16 parcel of land.

17           SECTION 6. Sections 81.086(b), (c), and (i), Health and  
18 Safety Code, are amended to read as follows:

19           (b) If the department or health authority has reasonable  
20 cause to believe that a carrier or conveyance has departed from or  
21 traveled through an area infected or contaminated with a  
22 communicable disease or that an individual transported by the  
23 carrier or conveyance is infected with, has been exposed to, or is  
24 the carrier of a communicable disease, the department or health  
25 authority may order the owner, operator, or authorized agent in  
26 control of the carrier or conveyance to:

- 27           (1) stop the carrier or conveyance at a port of entry

1 or place of first landing or first arrival in this state; and

2 (2) provide information on passengers and cargo  
3 manifests that includes the details of:

4 (A) any illness suspected of being communicable  
5 that occurred during the journey;

6 (B) any condition on board the carrier or  
7 conveyance during the journey that may lead to the spread of  
8 disease; and

9 (C) any control measures imposed on the carrier  
10 or conveyance, its passengers or crew, or its cargo or any other  
11 object on board during the journey.

12 (c) The department or health authority may impose necessary  
13 technically feasible control measures under Section 81.083 or  
14 81.084 to prevent the introduction and spread of communicable  
15 disease in this state if the department or health authority, after  
16 inspection, has reasonable cause to believe that a carrier or  
17 conveyance:

18 (1) that [~~that~~] has departed from or traveled through an  
19 infected or contaminated area and:

20 (A) [~~(1)~~] A is or may be infected or contaminated  
21 with a communicable disease; or

22 (B) [~~(2)~~] B has cargo or an object on board that is  
23 or may be infected or contaminated with a communicable disease; or

24 (2) [~~(3)~~] (2) has an individual on board who is infected  
25 with, has been exposed to, or is the carrier of [~~7~~] a communicable  
26 disease.

27 (i) The department or health authority may require an

1 individual transported by carrier or conveyance who the department  
2 or health authority has reasonable cause to believe is infected  
3 with, has been exposed to, or is the carrier of a communicable  
4 disease to be isolated from other travelers and to disembark with  
5 the individual's personal effects and baggage at the first location  
6 equipped with adequate investigative and disease control  
7 facilities, whether the person is in transit through this state or  
8 to an intermediate or ultimate destination in this state. The  
9 department or health authority may investigate and, if necessary,  
10 isolate or involuntarily hospitalize the individual until the  
11 department or health authority approves the discharge as authorized  
12 by Section 81.083.

13 SECTION 7. Subchapter E, Chapter 81, Health and Safety  
14 Code, is amended by adding Sections 81.0891, 81.0892, 81.0893,  
15 81.0894, and 81.0895 to read as follows:

16 Sec. 81.0891. EMERGENCY DETENTION OF INDIVIDUAL SUBJECT TO  
17 CONTROL ORDER. (a) A peace officer, without a warrant, may take an  
18 individual into custody if the officer has reason to believe and  
19 does believe that:

20 (1) the individual is subject to a written control  
21 order under Section 81.083 issued in response to a communicable  
22 disease that the commissioner of state health services has  
23 determined poses a serious and imminent risk to health and safety  
24 because the disease:

25 (A) has resulted or is likely to result in severe  
26 or life-threatening illness or death for those infected with the  
27 disease; and



1           (B) is not contained by current public health and  
2 medical interventions and is resulting in a high rate of morbidity  
3 or mortality;

4           (2) the individual, or the individual's parent, legal  
5 guardian, or managing conservator if the individual is a minor, is  
6 not complying with or does not intend to comply with the control  
7 order; and

8           (3) there is a substantial risk of serious harm to  
9 others unless the individual is immediately detained.

10          (b) A substantial risk of serious harm to others under  
11 Subsection (a)(3) may be demonstrated by:

12           (1) a violation of a control order issued in response  
13 to a communicable disease described by Subsection (a)(1) by the  
14 individual or, if the individual is a minor, the individual's  
15 parent, legal guardian, or managing conservator;

16           (2) evidence of signs or symptoms of illness  
17 consistent with the signs or symptoms of a communicable disease  
18 described by Subsection (a)(1), to the extent that the person  
19 cannot remain at liberty; or

20           (3) information provided to the peace officer by the  
21 local health authority that issued the control order or the  
22 department.

23          (c) The peace officer may form the belief that the  
24 individual may be subject to emergency detention under this  
25 section:

26           (1) on information and belief from the local health  
27 authority that issued the control order or the department; or

1           (2) on the basis of the condition of the individual or  
2 the circumstances under which the individual is found.

3           (d) A peace officer who takes an individual into custody  
4 under Subsection (a) shall immediately transport or, if the  
5 individual's suspected illness may pose a serious health risk to  
6 the peace officer, arrange for transportation of the individual to:

7           (1) the nearest appropriate health facility, as  
8 determined by the department; or

9           (2) a location considered suitable by the department  
10 or local health authority, including the individual's home.

11           (e) In determining whether a health facility or location is  
12 appropriate for detention of a particular individual under  
13 Subsection (d), the department or local health authority shall, to  
14 the extent possible while still protecting the public health,  
15 attempt to keep family units together.

16           (f) In determining whether a health facility is appropriate  
17 for the detention of a person under Subsection (d)(1), the  
18 department shall consider the facility's capacity and resources and  
19 whether the facility is designated as a facility for containment  
20 and treatment of communicable diseases.

21           (g) A peace officer who takes an individual into custody  
22 under Subsection (a) shall immediately inform the individual orally  
23 in simple, nontechnical terms:

24           (1) of the reason for the detention;

25           (2) of the individual's rights under Section 81.0895;

26 and

27           (3) that a staff member of the health facility, or the

1 department or local health authority if the individual is detained  
2 at a location under Subsection (d)(2), will inform the individual  
3 of the individual's rights under Section 81.0895 not later than 24  
4 hours after the time the individual is admitted to the facility or  
5 detained at the other location, as applicable.

6 Sec. 81.0892. PEACE OFFICER'S NOTIFICATION OF DETENTION.

7 (a) A peace officer shall immediately file with a health facility,  
8 or the local health authority or the department if the individual is  
9 detained at a location under Section 81.0891(d)(2), a notification  
10 of detention after transporting an individual to that facility or  
11 location under Section 81.0891.

12 (b) The notification of detention must contain:

13 (1) a statement that the officer has reason to believe  
14 and does believe that:

15 (A) the individual is the subject of a  
16 communicable disease control order under Section 81.083 in response  
17 to a communicable disease described by Section 81.0891(a)(1);

18 (B) the individual, or the individual's parent,  
19 legal guardian, or managing conservator if the individual is a  
20 minor, is not complying with or does not intend to comply with the  
21 control order;

22 (C) the individual evidences a substantial risk  
23 of serious harm to others; and

24 (D) the risk of harm is imminent unless the  
25 person is immediately detained;

26 (2) a statement that the officer's beliefs are based on  
27 specific recent behavior, overt acts, attempts, statements, or

1 threats that were observed by or reliably reported to the officer;  
2 and

3 (3) a detailed description of the specific behavior,  
4 overt acts, attempts, statements, or threats and, if applicable,  
5 the name of the person who reported or observed the behavior, acts,  
6 attempts, statements, or threats.

7 (c) If the individual is detained at a health facility under  
8 Section 81.0891(d)(1), the facility in which the individual is  
9 detained shall include in the detained individual's file the  
10 notification of detention described by this section.

11 (d) The peace officer shall give the notification of  
12 detention on the following form:

13 Notification--Communicable Disease Emergency Detention

14 NO. \_\_\_\_\_

15 DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

16 THE STATE OF TEXAS

17 FOR THE BEST INTEREST AND PROTECTION OF:

18 \_\_\_\_\_

19 NOTIFICATION OF COMMUNICABLE DISEASE EMERGENCY DETENTION

20 Now comes \_\_\_\_\_, a peace officer with  
21 (name of agency) \_\_\_\_\_, of the State of  
22 Texas, and states as follows:

23 1. I have reason to believe and do believe that (name of individual  
24 to be detained) \_\_\_\_\_ is the subject of a  
25 control order under Section 81.083, Health and Safety Code, issued  
26 in response to a communicable disease determined by the  
27 commissioner of state health services to pose a serious and

1 imminent risk to health and safety.

2 2. I have reason to believe and do believe that the above-named  
3 individual (or, if applicable, the minor individual's parent, legal  
4 guardian, or managing conservator) is not complying with or does  
5 not intend to comply with the control order based on the following:

6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_

10 3. I have reason to believe and do believe that the above-named  
11 individual evidences a substantial risk of serious harm to others  
12 based on the following:

13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_

17 4. I have reason to believe and do believe that the risk of harm is  
18 imminent unless the above-named individual is immediately  
19 detained.

20 5. My beliefs are based on the following recent behavior, overt  
21 acts, attempts, statements, or threats observed by me or reliably  
22 reported to me:

23 \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_

27 6. The names and addresses of those persons who reported or

1 observed recent behavior, overt acts, attempts, statements, or  
2 threats of the above-named person are (if applicable):

3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_

7 For the above reasons, I present this notification to (name of  
8 health facility or local health authority or department)  
9 \_\_\_\_\_ for the detention of (name of individual  
10 to be detained) \_\_\_\_\_.

11 7. Was the individual restrained in any way? Yes  No

12 \_\_\_\_\_ BADGE NO. \_\_\_\_\_

13 PEACE OFFICER'S SIGNATURE

14 Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

15 Telephone: \_\_\_\_\_

16 (e) A health facility, local health authority, or the  
17 department may not require a peace officer to execute any form other  
18 than the form provided by Subsection (d) as a condition of accepting  
19 for temporary admission an individual detained under Section  
20 81.0891.

21 Sec. 81.0893. ACCEPTANCE OF PERSON. A health facility  
22 shall temporarily accept an individual for whom a peace officer  
23 files a notification of detention under Section 81.0892(a).

24 Sec. 81.0894. RELEASE FROM DETENTION. (a) An individual  
25 detained under Section 81.0891 may be detained in custody for not  
26 longer than 48 hours after the time the individual is presented to  
27 the health facility or location unless a written order for further

1 custody or detention is obtained under Subchapter G.

2 (b) If the 48-hour period ends on a Saturday, Sunday, legal  
3 holiday, or before 4 p.m. on the first succeeding business day, the  
4 individual may be detained until 4 p.m. on the first succeeding  
5 business day. If the 48-hour period ends at a different time, the  
6 individual may be detained only until 4 p.m. on the day the 48-hour  
7 period ends.

8 (c) If extremely hazardous weather conditions exist or a  
9 disaster occurs, the presiding judge or magistrate may, by written  
10 order made each day, extend by an additional 24 hours the period  
11 during which the individual may be detained. The written order must  
12 declare that an emergency exists because of the weather or the  
13 occurrence of a disaster.

14 Sec. 81.0895. RIGHTS OF INDIVIDUALS DETAINED. (a) An  
15 individual subject to emergency detention under Section 81.0891 has  
16 the right:

17 (1) to be advised of the location of detention, the  
18 reasons for the detention, and the fact that the detention could  
19 result in a longer period of court-ordered management;

20 (2) to a reasonable opportunity to communicate with  
21 and retain an attorney;

22 (3) to be released from a health facility as provided  
23 by Section 81.0894;

24 (4) to be advised that communications with a health  
25 professional, local health authority, or the department may be used  
26 in proceedings for further detention; and

27 (5) to a reasonable opportunity to communicate with a

1 relative or other responsible person who has a proper interest in  
2 the individual's welfare.

3 (b) An individual detained under Section 81.0891 must:

4 (1) immediately be informed, orally in simple,  
5 nontechnical terms, of the individual's rights under this section  
6 by the peace officer at the time the peace officer takes the  
7 individual into custody under Section 81.0891; and

8 (2) not later than 24 hours after the time the  
9 individual is admitted to a health facility or detained in another  
10 location, as applicable, be informed of the rights provided by this  
11 section and this subchapter:

12 (A) orally in simple, nontechnical terms and in  
13 writing in the person's primary language, if possible; or

14 (B) through the use of a means reasonably  
15 calculated to communicate with a hearing or visually impaired  
16 individual, if applicable.

17 (c) The executive commissioner of the Health and Human  
18 Services Commission by rule shall prescribe the manner in which the  
19 individual is informed of the individual's rights under this  
20 subchapter.

21 SECTION 8. The heading to Subchapter G, Chapter 81, Health  
22 and Safety Code, is amended to read as follows:

23 SUBCHAPTER G. COURT ORDERS FOR MANAGEMENT OF PERSONS WHO ARE  
24 INFECTED WITH, EXPOSED TO, OR CARRIERS OF COMMUNICABLE DISEASES

25 SECTION 9. Section 81.151(e), Health and Safety Code, is  
26 amended to read as follows:

27 (e) A single application may be filed for a group if:



1           (1) the department or health authority reasonably  
2 suspects that a group of five or more persons are infected with,  
3 have been [~~has been~~] exposed to, or are carriers of [~~infected with~~]  
4 a communicable disease; and

5           (2) each person in the group meets the criteria of this  
6 chapter for court orders for the management of a person who is  
7 infected with, has been exposed to, or is a carrier of a  
8 communicable disease.

9           SECTION 10. Section [81.1511](#), Health and Safety Code, is  
10 amended to read as follows:

11           Sec. 81.1511. APPLICABILITY OF SUBCHAPTER TO GROUP. To the  
12 extent possible, and except as otherwise provided, if a group  
13 application is filed under Section [81.151](#)(e), the provisions of  
14 this subchapter apply to the group in the same manner as they apply  
15 to an individual, except that:

16           (1) except as provided by Subdivision (2), any  
17 statement or determination regarding the condition [~~conduct~~] or  
18 status of a person must be made in regard to the majority of the  
19 members of the group;

20           (2) any finding or statement related to compliance  
21 with orders under Section [81.083](#) must be made for the entire group;

22           (3) any notice required to be provided to a person  
23 must:

24           (A) in addition to being sent to each individual  
25 in the group for whom the department or health authority has an  
26 address, be published in a newspaper of general circulation in the  
27 county that includes the area of the suspected contamination and

1 any other county in which the department or health authority  
2 suspects a member of the group resides;

3 (B) state that the group is appointed an attorney  
4 but that a member of the group is entitled to the member's own  
5 attorney on request; and

6 (C) include instructions for any person who  
7 reasonably suspects that the person was at the place of the  
8 suspected exposure at the time of the suspected exposure to provide  
9 the person's name, address, and county of residence to the  
10 department or health authority; and

11 (4) an affidavit of medical evaluation for the group  
12 may be based on evaluation of one or more members of the group if the  
13 physician reasonably believes that the condition of the individual  
14 or individuals represents the condition of the majority of the  
15 members of the group.

16 SECTION 11. Section 81.152, Health and Safety Code, is  
17 amended to read as follows:

18 Sec. 81.152. FORM OF APPLICATION. (a) An application for  
19 a court order for the management of a person who is infected with,  
20 has been exposed to, or is a carrier of a communicable disease must  
21 be styled using the person's initials and not the person's full  
22 name.

23 (b) The application must state whether the application is  
24 for temporary or extended management of a person who is infected  
25 with, has been exposed to, or is a carrier of a communicable  
26 disease.

27 (c) Any application must contain the following information

1 according to the applicant's information and belief:

2 (1) the person's name and address;

3 (2) the person's county of residence in this state;

4 (3) a statement that the person is infected with, has  
5 been exposed to, or is the carrier of or is reasonably suspected of  
6 being infected with, having been exposed to, or being the carrier of  
7 a communicable disease that presents a threat to public health and  
8 that the person meets the criteria of this chapter for court orders  
9 for the management of a person with a communicable disease; and

10 (4) a statement, to be included only in an application  
11 for inpatient treatment, that the person fails or refuses to comply  
12 with written orders of the department or health authority under  
13 Section 81.083, if applicable.

14 (d) A group application must contain the following  
15 information according to the applicant's information and belief:

16 (1) a description of the group and the location where  
17 the members of the group may be found;

18 (2) a narrative of how the members of the group have  
19 become infected with, were [~~has been~~] exposed to, or became  
20 carriers of the communicable disease [~~infected~~];

21 (3) an estimate of how many persons are included in the  
22 group;

23 (4) to the extent known, a list containing the name,  
24 address, and county of residence in this state of each member of the  
25 group;

26 (5) if the applicant is unable to obtain the name and  
27 address of each member of the group:

1 (A) a statement that the applicant has sought  
2 each of the unknown names and addresses; and

3 (B) the reason that the names and addresses are  
4 unavailable; and

5 (6) a statement, to be included only in an application  
6 for inpatient treatment, that the members of the group fail or  
7 refuse to comply with written orders of the department or health  
8 authority under Section 81.083, if applicable.

9 SECTION 12. Section 81.153(a), Health and Safety Code, is  
10 amended to read as follows:

11 (a) The judge shall appoint an attorney to represent a  
12 person not later than the 24th hour after the time an application  
13 for a court order for the management of a person who is infected  
14 with, has been exposed to, or is the carrier of a communicable  
15 disease is filed if the person does not have an attorney. The judge  
16 shall also appoint a language or sign interpreter if necessary to  
17 ensure effective communication with the attorney in the person's  
18 primary language.

19 SECTION 13. Section 81.158(a), Health and Safety Code, is  
20 amended to read as follows:

21 (a) An affidavit of medical evaluation must be dated and  
22 signed by the commissioner or the commissioner's designee, or by a  
23 health authority with the concurrence of the commissioner or the  
24 commissioner's designee. The certificate must include:

25 (1) the name and address of the examining physician,  
26 if applicable;

27 (2) the name and address of the person examined or to

1 be examined;

2 (3) the date and place of the examination, if  
3 applicable;

4 (4) a brief diagnosis of the examined person's  
5 physical and mental condition, if applicable;

6 (5) the period, if any, during which the examined  
7 person has been under the care of the examining physician;

8 (6) an accurate description of the health treatment,  
9 if any, given by or administered under the direction of the  
10 examining physician; and

11 (7) the opinion of the health authority or department  
12 and the reason for that opinion, including laboratory reports,  
13 that:

14 (A) the examined person is infected with, has  
15 been exposed to, or is the carrier of or is reasonably suspected of  
16 being infected with, having been exposed to, or being the carrier of  
17 a communicable disease that presents a threat to public health; and

18 (B) as a result of that communicable disease the  
19 examined person:

20 (i) is likely to cause serious harm to self  
21 [~~himself~~]; or

22 (ii) will, if not examined, observed, or  
23 treated, continue to endanger public health.

24 SECTION 14. Section 81.159(a), Health and Safety Code, is  
25 amended to read as follows:

26 (a) The commissioner shall designate health care facilities  
27 throughout the state that are capable of providing services for the

1 examination, observation, isolation, or treatment of persons  
2 having or suspected of being infected with, having been exposed to,  
3 or being a carrier of [~~having~~] a communicable disease. However, the  
4 commissioner may not designate:

5 (1) a nursing home or custodial care home required to  
6 be licensed under Chapter 242; or

7 (2) an intermediate care facility for persons with an  
8 intellectual or developmental disability [~~the mentally retarded~~]  
9 required to be licensed under Chapter 252.

10 SECTION 15. Sections 81.161(a) and (c), Health and Safety  
11 Code, are amended to read as follows:

12 (a) A motion for an order of protective custody may be filed  
13 only in the court in which an application for a court order for the  
14 management of a person who is infected with, has been exposed to, or  
15 is the carrier of a communicable disease is pending.

16 (c) The motion must state that:

17 (1) the department or health authority has reason to  
18 believe and does believe that the person meets the criteria  
19 authorizing the court to order protective custody; and

20 (2) the belief is derived from:

21 (A) the representations of a credible person;

22 (B) the condition [~~conduct~~] of the person who is  
23 the subject of the motion; or

24 (C) the circumstances under which the person is  
25 found.

26 SECTION 16. Sections 81.162(a) and (f), Health and Safety  
27 Code, are amended to read as follows:

1 (a) The judge or designated magistrate may issue a  
2 protective custody order if the judge or magistrate determines:

3 (1) that the health authority or department has stated  
4 its opinion and the detailed basis for its opinion that the person  
5 is infected with, has been exposed to, or is the carrier of or is  
6 reasonably suspected of being infected with, having been exposed  
7 to, or being the carrier of a communicable disease that presents an  
8 immediate threat to the public health; and

9 (2) that the person fails or refuses to comply with the  
10 written orders of the health authority or the department under  
11 Section 81.083, if applicable.

12 (f) Notwithstanding Section 81.161 or Subsection (c), a  
13 judge or magistrate may issue a temporary protective custody order  
14 before the filing of an application for a court order for the  
15 management of a person who is infected with, has been exposed to, or  
16 is a carrier of a communicable disease under Section 81.151 if:

17 (1) the judge or magistrate takes testimony that an  
18 application under Section 81.151, together with a motion for  
19 protective custody under Section 81.161, will be filed with the  
20 court on the next business day; and

21 (2) the judge or magistrate determines based on  
22 evidence taken under Subsection (d) that there is probable cause to  
23 believe that the person presents a substantial risk of serious harm  
24 to self [~~himself~~] or others to the extent that the person cannot be  
25 at liberty pending the filing of the application and motion.

26 SECTION 17. Section 81.165(a), Health and Safety Code, is  
27 amended to read as follows:

1 (a) A hearing must be held to determine if:

2 (1) there is probable cause to believe that a person  
3 under a protective custody order presents a substantial risk of  
4 serious harm to the person [~~himself~~] or others to the extent that  
5 the person cannot be at liberty pending the hearing on a court order  
6 for the management of a person with a communicable disease; and

7 (2) the health authority or department has stated its  
8 opinion and the detailed basis for its opinion that the person is  
9 infected with, has been exposed to, or is the carrier of or is  
10 reasonably suspected of being infected with, having been exposed  
11 to, or being the carrier of a communicable disease that presents an  
12 immediate threat to public health.

13 SECTION 18. Section 81.166(d), Health and Safety Code, is  
14 amended to read as follows:

15 (d) The notification of probable cause hearing shall read as  
16 follows:

17 (Style of Case)

18 NOTIFICATION OF PROBABLE CAUSE HEARING

19 On this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ [~~19\_\_~~], the  
20 undersigned hearing officer heard evidence concerning the need for  
21 protective custody of \_\_\_\_\_ (hereinafter referred to as  
22 proposed patient). The proposed patient was given the opportunity  
23 to challenge the allegations that the proposed patient [~~(s)he~~]  
24 presents a substantial risk of serious harm to self or others.

25 The proposed patient and the proposed patient's [~~his or her~~]  
26 attorney \_\_\_\_\_ have been given written notice  
27 that the proposed patient was placed under an order of protective



1 custody and the reasons for such order on \_\_\_\_\_ (date of  
2 notice).

3 I have examined the affidavit of medical evaluation and  
4 \_\_\_\_\_ (other evidence considered). Based on this  
5 evidence, I find that there is probable cause to believe that the  
6 proposed patient presents a substantial risk of serious harm to  
7 self [~~himself or herself~~] (yes \_\_\_\_ or no \_\_\_\_ ) or others (yes \_\_\_\_  
8 or no \_\_\_\_ ) such that the proposed patient [~~(s)he~~] cannot be at  
9 liberty pending final hearing because the proposed patient [~~(s)he~~]  
10 is infected with, has been exposed to, or is the carrier of or is  
11 reasonably suspected of being infected with, having been exposed  
12 to, or being the carrier of a communicable disease that presents an  
13 immediate threat to the public health and the proposed patient  
14 [~~(s)he~~] has failed or refused to comply with the orders of the  
15 health authority or the Texas Department of Health delivered on  
16 \_\_\_\_\_ (date of service) \_\_\_\_\_.

17 SECTION 19. Section 81.167(a), Health and Safety Code, is  
18 amended to read as follows:

19 (a) The head of a facility or the facility head's designee  
20 shall detain a person under a protective custody order in the  
21 facility pending a court order for the management of a person who is  
22 infected with, has been exposed to, or is a carrier of a  
23 communicable disease or until the person is released or discharged  
24 under Section 81.168.

25 SECTION 20. Section 81.168(c), Health and Safety Code, is  
26 amended to read as follows:

27 (c) The head of a facility shall discharge a person held

1 under a protective custody order if:

2 (1) the head of the facility does not receive notice  
3 within 72 hours after detention begins, excluding Saturdays,  
4 Sundays, legal holidays, the period prescribed by Section 81.165(b)  
5 for an extreme weather emergency, and the duration of a public  
6 health disaster, that a probable cause hearing was held and the  
7 person's continued detention was authorized;

8 (2) a final court order for the management of a person  
9 who is infected with, has been exposed to, or is a carrier of a  
10 communicable disease has not been entered within the time  
11 prescribed by Section 81.154; or

12 (3) the health authority or commissioner determines  
13 that the person no longer meets the criteria for protective custody  
14 prescribed by Section 81.162.

15 SECTION 21. Section 81.169(a), Health and Safety Code, is  
16 amended to read as follows:

17 (a) Except as provided by Subsection (b), the judge may hold  
18 a hearing on an application for a court order for the management of  
19 a person who is infected with, has been exposed to, or is a carrier  
20 of a communicable disease at any suitable location in the county.  
21 The hearing should be held in a physical setting that is not likely  
22 to have a harmful effect on the public or the person.

23 SECTION 22. Section 81.170(f), Health and Safety Code, is  
24 amended to read as follows:

25 (f) The jury shall determine if the person is infected with,  
26 has been exposed to, or is the carrier of or is reasonably suspected  
27 of being infected with, having been exposed to, or being the carrier

1 of a communicable disease that presents a threat to the public  
2 health and, if the application is for inpatient treatment, has  
3 refused or failed to follow the orders of the health authority. The  
4 jury may not make a finding about the type of services to be  
5 provided to the person.

6 SECTION 23. Section 81.171(a), Health and Safety Code, is  
7 amended to read as follows:

8 (a) The court shall enter an order denying an application  
9 for a court order for temporary or extended management if after a  
10 hearing the judge or jury fails to find, from clear and convincing  
11 evidence, that the person:

12 (1) is infected with, has been exposed to, or is the  
13 carrier of or is reasonably suspected of being infected with,  
14 having been exposed to, or being the carrier of a communicable  
15 disease that presents a threat to the public health;

16 (2) has refused or failed to follow the orders of the  
17 health authority if the application is for inpatient treatment; and

18 (3) meets the applicable criteria for orders for the  
19 management of a person who is infected with, has been exposed to, or  
20 is a carrier of a communicable disease.

21 SECTION 24. Section 81.172(a), Health and Safety Code, is  
22 amended to read as follows:

23 (a) The judge or jury may determine that a person requires  
24 court-ordered examination, observation, isolation, or treatment  
25 only if the judge or jury finds, from clear and convincing evidence,  
26 that:

27 (1) the person is infected with, has been exposed to,

1 or is the carrier of or is reasonably suspected of being infected  
2 with, having been exposed to, or being the carrier of a communicable  
3 disease that presents a threat to the public health and, if the  
4 application is for inpatient treatment, has failed or refused to  
5 follow the orders of the health authority or department; and

6 (2) as a result of the communicable disease the  
7 person:

8 (A) is likely to cause serious harm to self  
9 [~~himself~~]; or

10 (B) will, if not examined, observed, isolated, or  
11 treated, continue to endanger public health.

12 SECTION 25. Section 81.174(a), Health and Safety Code, is  
13 amended to read as follows:

14 (a) The judge shall dismiss the jury, if any, after a  
15 hearing in which a person is found:

16 (1) to be infected with, to have been exposed to, or to  
17 be the carrier of or to be reasonably suspected of being infected  
18 with, having been exposed to, or being a carrier of a communicable  
19 disease;

20 (2) to have failed or refused to follow the orders of a  
21 health authority or the department if the application is for  
22 inpatient treatment; and

23 (3) to meet the criteria for orders for the management  
24 of a patient who is infected with, has been exposed to, or is a  
25 carrier of a communicable disease.

26 SECTION 26. Section 81.176, Health and Safety Code, is  
27 amended to read as follows:

1           Sec. 81.176. DESIGNATION OF FACILITY. In a court order for  
2 the temporary or extended management of a person who is infected  
3 with, has been exposed to, or is a carrier of a communicable disease  
4 specifying inpatient care, the court shall commit the person to a  
5 health care facility designated by the commissioner or a health  
6 authority in accordance with Section 81.159.

7           SECTION 27. Section 81.183(b), Health and Safety Code, is  
8 amended to read as follows:

9           (b) The court shall appoint an attorney to represent the  
10 person if a hearing is scheduled. The person shall be given notice  
11 of the matters to be considered at the hearing. The notice must  
12 comply with the requirements of Section 81.155 for notice before a  
13 hearing on an application for court orders for the management of a  
14 person who is infected with, has been exposed to, or is a carrier of  
15 a communicable disease.

16           SECTION 28. Section 81.186(a), Health and Safety Code, is  
17 amended to read as follows:

18           (a) The court may modify an order for outpatient services at  
19 the modification hearing if the court determines that the person  
20 continues to meet the applicable criteria for court orders for the  
21 management of a person who is infected with, has been exposed to, or  
22 is a carrier of a communicable disease and that:

23                   (1) the person has not complied with the court's order;  
24 or

25                   (2) the person's condition has deteriorated to the  
26 extent that outpatient services are no longer appropriate.

27           SECTION 29. Section 81.188(a), Health and Safety Code, is

1 amended to read as follows:

2 (a) The court may set aside an order for the management of a  
3 person who is infected with, has been exposed to, or is a carrier of  
4 a communicable disease and grant a motion for rehearing for good  
5 cause shown.

6 SECTION 30. Section 81.190(d), Health and Safety Code, is  
7 amended to read as follows:

8 (d) The hearing is held before the court and without a jury.  
9 The hearing must be held in accordance with the requirements for a  
10 hearing on an application for a court order for the management of a  
11 person who is infected with, has been exposed to, or is a carrier of  
12 a communicable disease.

13 SECTION 31. Section 81.191(a), Health and Safety Code, is  
14 amended to read as follows:

15 (a) An appeal from an order for the management of a person  
16 who is infected with, has been exposed to, or is a carrier of a  
17 communicable disease, or from a renewal or modification of an  
18 order, must be filed in the court of appeals for the county in which  
19 the order is entered.

20 SECTION 32. Section 81.193(a), Health and Safety Code, is  
21 amended to read as follows:

22 (a) The head of a facility may permit a person admitted to  
23 the facility under order for extended inpatient management of a  
24 person who is infected with, has been exposed to, or is a carrier of  
25 a communicable disease to leave the facility under a pass.

26 SECTION 33. Chapter 81, Health and Safety Code, is amended  
27 by adding Subchapters J and K to read as follows:

1 SUBCHAPTER J. TASK FORCE ON INFECTIOUS DISEASE PREPAREDNESS AND  
2 RESPONSE

3 Sec. 81.401. DEFINITION. In this subchapter, "task force"  
4 means the Task Force on Infectious Disease Preparedness and  
5 Response.

6 Sec. 81.402. PURPOSE AND FINDINGS. The legislature finds  
7 that:

8 (1) infectious diseases are responsible for more  
9 deaths worldwide than any other single cause;

10 (2) the State of Texas has a responsibility to  
11 safeguard and protect the health and well-being of its citizens  
12 from the spread of infectious diseases;

13 (3) on September 30, 2014, the first case of Ebola  
14 diagnosed in the United States occurred in Dallas, Texas;

15 (4) addressing infectious diseases requires the  
16 coordination and cooperation of multiple governmental entities at  
17 the local, state, and federal levels;

18 (5) public health and medical preparedness and  
19 response guidelines are crucial to protect the safety and welfare  
20 of our citizens; and

21 (6) Texas has nationally recognized infectious  
22 disease experts and other highly trained professionals across the  
23 state with the experience needed to minimize any potential risk to  
24 the people of Texas.

25 Sec. 81.403. TASK FORCE; DUTIES. (a) The Task Force on  
26 Infectious Disease Preparedness and Response is created as an  
27 advisory panel to the governor.

1       (b) The task force shall:

2           (1) provide expert, evidence-based assessments,  
3 protocols, and recommendations related to state responses to  
4 infectious diseases, including Ebola; and

5           (2) serve as a reliable and transparent source of  
6 information and education for Texas leadership and citizens.

7       Sec. 81.404. APPOINTMENT OF MEMBERS; TERMS. (a) The  
8 governor may appoint members of the task force as necessary,  
9 including members from relevant state agencies, members with  
10 expertise in infectious diseases and other issues involved in the  
11 prevention of the spread of infectious diseases, and members from  
12 institutions of higher education in this state. The governor shall  
13 appoint to the task force:

14           (1) at least one member who is a representative of a  
15 local health authority serving a rural area; and

16           (2) at least one member who is a representative of a  
17 local health authority serving an urban area.

18       (b) The governor shall appoint a director of the task force  
19 from among the members of the task force.

20       (c) The governor may fill any vacancy that occurs on the  
21 task force and may appoint additional members as needed.

22       (d) Members of the task force serve at the pleasure of the  
23 governor.

24       (e) A state or local employee appointed to the task force  
25 shall perform any duties required by the task force in addition to  
26 the regular duties of the employee.

27       Sec. 81.405. REPORTS. The task force may make written



1 reports on its findings and recommendations, including legislative  
2 recommendations, to the governor and legislature.

3 Sec. 81.406. MEETINGS. (a) The task force shall meet at  
4 times and locations as determined by the director of the task force.

5 (b) The task force may meet telephonically.

6 (c) The task force may hold public hearings to gather  
7 information. The task force shall endeavor to meet in various parts  
8 of the state to encourage local input.

9 (d) The task force may meet in executive session to discuss  
10 matters that are confidential by state or federal law or to ensure  
11 public security or law enforcement needs.

12 Sec. 81.407. ADMINISTRATIVE SUPPORT. State agencies with  
13 members on the task force shall provide administrative support for  
14 the task force.

15 Sec. 81.408. REIMBURSEMENT. Task force members serve  
16 without compensation and are not entitled to reimbursement for  
17 travel expenses.

18 SUBCHAPTER K. STATEWIDE INFECTIOUS DISEASE CONTROL MEASURES;  
19 PREPARATION

20 Sec. 81.451. PERSONAL PROTECTIVE EQUIPMENT. (a) In this  
21 section, "personal protective equipment" means specialized  
22 clothing or equipment worn for protection against infectious  
23 materials.

24 (b) The department shall establish a stockpile, or regional  
25 stockpiles, of personal protective equipment to support responses  
26 to infectious disease emergencies in the state, if funds are  
27 appropriated for the purposes of this section.

1       Sec. 81.452. MOBILE APPLICATION. The department may  
2 contract to establish a mobile application for wireless  
3 communications devices that might be used by health officials and  
4 health care providers to monitor the spread of an infectious  
5 disease in real time.

6       Sec. 81.453. PORTABLE MEDICAL WASTE TREATMENT. The  
7 department, the Texas Department of Transportation, and the Texas  
8 Commission on Environmental Quality shall:

9           (1) evaluate portable treatment options for medical  
10 waste to render pathogens in that waste noninfectious; and

11           (2) develop procedures to rapidly deploy the portable  
12 treatment options through vendor contracts or state purchase.

13       SECTION 34. Subchapter B, Chapter 716, Health and Safety  
14 Code, is amended by adding Section 716.055 to read as follows:

15       Sec. 716.055. EXCEPTION: DEPARTMENT OF STATE HEALTH  
16 SERVICES AUTHORIZATION. (a) A crematory establishment may  
17 cremate the deceased person's human remains without receipt of a  
18 cremation authorization form signed by the authorizing agent if the  
19 Department of State Health Services certifies that:

20           (1) the deceased person was infected with, was exposed  
21 to, or was a carrier of a communicable disease that presents a  
22 threat to public health; and

23           (2) burial of the body would pose a public health risk.

24       (b) The Texas Funeral Service Commission may adopt rules  
25 necessary to implement this section.

26       SECTION 35. The heading to Section 716.204, Health and  
27 Safety Code, is amended to read as follows:

1           Sec. 716.204. IMMUNITY FROM CRIMINAL AND CIVIL LIABILITY[~~+~~  
2 ~~WRITTEN DIRECTIONS~~].

3           SECTION 36. Section 716.204, Health and Safety Code, is  
4 amended by adding Subsection (c) to read as follows:

5           (c) If Section 716.055(a) applies, a cemetery organization,  
6 a business operating a crematory or columbarium, a funeral  
7 director, an embalmer, or a funeral establishment is not criminally  
8 liable or liable in a civil action for cremating the human remains  
9 of a deceased person.

10          SECTION 37. The Department of State Health Services, the  
11 Texas Animal Health Commission, the Texas A&M Veterinary Medical  
12 Diagnostic Laboratory, and the Texas A&M College of Veterinary  
13 Medicine and Biomedical Sciences shall:

14           (1) review documents published or updated by the  
15 federal Centers for Disease Control and Prevention and the United  
16 States Department of Agriculture providing guidance on infection  
17 control measures, including quarantine, for pets and livestock  
18 animals exposed to infectious diseases;

19           (2) incorporate the recommendations of the federal  
20 Centers for Disease Control and Prevention and the United States  
21 Department of Agriculture in developing and revising guidelines for  
22 this state to use in preventing the spread of infectious disease  
23 through pets and livestock;

24           (3) evaluate the current facilities and capabilities  
25 of this state to implement the guidelines adopted under Subdivision  
26 (2) of this section, including an evaluation of the sufficiency and  
27 capacity of available quarantine facilities;

1           (4) solicit public feedback in developing any  
2 recommendations for legislative, administrative, or executive  
3 action to address perceived problems; and

4           (5) submit a report on any findings, evaluations, and  
5 recommendations to the governor and the legislature not later than  
6 December 1, 2016.

7           SECTION 38. (a) Not later than December 1, 2015, the  
8 Department of State Health Services shall submit a report to the  
9 legislature regarding the preparedness of this state for containing  
10 an infectious disease outbreak.

11           (b) The report under this section must include:

12           (1) any progress that the department has made on  
13 implementing recommendations of the Task Force on Infectious  
14 Disease Preparedness and Response;

15           (2) recommendations for statutory changes that are  
16 necessary to enable the department to implement the recommendations  
17 of the Task Force on Infectious Disease Preparedness and Response;

18           (3) a cost analysis for the implementation of any  
19 recommendations of the Task Force on Infectious Disease  
20 Preparedness and Response that the department determines are not  
21 possible to implement using existing resources;

22           (4) an evaluation of portable medical waste treatment  
23 options under Section 81.453, Health and Safety Code, as added by  
24 this Act, proposed procedures for deploying the portable treatment  
25 options, any projected costs for those treatments, and any  
26 legislative recommendations necessary to implement any proposed  
27 portable medical waste treatment solutions; and

1           (5) any recommendations for legislation or other  
2 measures that would assist the department in preparing for an  
3 infectious disease outbreak.

4           (c) The Department of State Health Services shall  
5 coordinate with other state agencies as necessary to complete the  
6 report under this section. The report must specify if the  
7 department determines that a recommendation be implemented by  
8 another state agency.

9           SECTION 39. (a) On the effective date of this Act, a member  
10 serving on the Task Force on Infectious Disease Preparedness and  
11 Response created by executive order of the governor continues to  
12 serve on the Task Force on Infectious Disease Preparedness and  
13 Response under Subchapter J, Chapter 81, Health and Safety Code, as  
14 added by this Act.

15           (b) As soon as practicable after the effective date of this  
16 Act, the governor shall make any appointments to the Task Force on  
17 Infectious Disease Preparedness and Response required under  
18 Subchapter J, Chapter 81, Health and Safety Code, as added by this  
19 Act.

20           SECTION 40. This Act takes effect immediately if it  
21 receives a vote of two-thirds of all the members elected to each  
22 house, as provided by Section 39, Article III, Texas Constitution.  
23 If this Act does not receive the vote necessary for immediate  
24 effect, this Act takes effect September 1, 2015.