

1-1 By: Uresti S.B. No. 1574
1-2 (In the Senate - Filed March 12, 2015; March 23, 2015, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 April 16, 2015, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 16, 2015,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>X</u>			
1-10	<u>X</u>			
1-11	<u>X</u>			
1-12	<u>X</u>			
1-13	<u>X</u>			
1-14	<u>X</u>			
1-15	<u>X</u>			
1-16	<u>X</u>			
1-17	<u>X</u>			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1574 By: Uresti

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to emergency response employees or volunteers and others
1-22 exposed or potentially exposed to certain diseases or parasites.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Article 18.22(a), Code of Criminal Procedure, is
1-25 amended to read as follows:

1-26 (a) A person who is arrested for a misdemeanor or felony and
1-27 who during the commission of that offense or an arrest following the
1-28 commission of that offense causes an emergency response employee or
1-29 volunteer, as defined by Section 81.003, Health and Safety Code, [~~a~~
1-30 ~~peace officer~~] to come into contact with the person's bodily fluids
1-31 shall, at the direction of the court having jurisdiction over the
1-32 arrested person, undergo a medical procedure or test designed to
1-33 show or help show whether the person has a communicable disease.
1-34 The court may direct the person to undergo the procedure or test on
1-35 its own motion or on the request of the emergency response employee
1-36 or volunteer [~~peace officer~~]. If the person refuses to submit
1-37 voluntarily to the procedure or test, the court shall require the
1-38 person to submit to the procedure or test. Notwithstanding any
1-39 other law, the person performing the procedure or test shall make
1-40 the test results available to the local health authority and the
1-41 designated infection control officer of the entity that employs or
1-42 uses the services of the affected emergency response employee or
1-43 volunteer, and the local health authority or the designated
1-44 infection control officer of the affected employee or volunteer
1-45 shall notify the emergency response employee or volunteer [~~peace~~
1-46 ~~officer~~] of the test result. The state may not use the fact that a
1-47 medical procedure or test was performed on a person under this
1-48 article, or use the results of the procedure or test, in any
1-49 criminal proceeding arising out of the alleged offense.

1-50 SECTION 2. Section 607.102, Government Code, is amended to
1-51 read as follows:

1-52 Sec. 607.102. NOTIFICATION. An [~~A firefighter or~~
1-53 emergency response employee or volunteer, as defined by Section
1-54 81.003, Health and Safety Code, [~~medical technician~~] who is exposed
1-55 to methicillin-resistant Staphylococcus aureus or a disease caused
1-56 by a select agent or toxin identified or listed under 42 C.F.R.
1-57 Section 73.3 is entitled to receive notification of the exposure in
1-58 the manner prescribed by Section 81.048, Health and Safety Code.

1-59 SECTION 3. Section 81.003, Health and Safety Code, is
1-60 amended by adding Subdivisions (1-a) and (1-b) and amending

2-1 Subdivision (8) to read as follows:

2-2 (1-a) "Emergency response employee or volunteer"
 2-3 means an individual acting in the course and scope of employment or
 2-4 service as a volunteer as emergency medical service personnel, a
 2-5 peace officer, a detention officer, a county jailer, or a fire
 2-6 fighter.

2-7 (1-b) "Designated infection control officer" means
 2-8 the person serving as an entity's designated infection control
 2-9 officer under Section 81.012.

2-10 (8) "Reportable disease" means a [includes only a]
 2-11 disease that is designated as [or condition included in the list of]
 2-12 reportable under Section 81.048 [diseases].

2-13 SECTION 4. Subchapter A, Chapter 81, Health and Safety
 2-14 Code, is amended by adding Sections 81.012 and 81.013 to read as
 2-15 follows:

2-16 Sec. 81.012. DESIGNATED INFECTION CONTROL OFFICER. (a) An
 2-17 entity that employs or uses the services of an emergency response
 2-18 employee or volunteer shall nominate a designated infection control
 2-19 officer and an alternate designated infection control officer to:

2-20 (1) receive notification of a potential exposure to a
 2-21 reportable disease from a health care facility;

2-22 (2) notify the appropriate health care providers of a
 2-23 potential exposure to a reportable disease;

2-24 (3) act as a liaison between the entity's emergency
 2-25 response employees or volunteers who may have been exposed to a
 2-26 reportable disease during the course and scope of employment or
 2-27 service as a volunteer and the destination hospital of the patient
 2-28 who was the source of the potential exposure;

2-29 (4) investigate and evaluate an exposure incident,
 2-30 using current evidence-based information on the possible risks of
 2-31 communicable disease presented by the exposure incident; and

2-32 (5) monitor all follow-up treatment provided to the
 2-33 affected emergency response employee or volunteer, in accordance
 2-34 with applicable federal, state, and local law.

2-35 (b) The executive commissioner by rule shall prescribe the
 2-36 qualifications required for a person to be eligible to be
 2-37 designated as an infection control officer under this section. The
 2-38 qualifications must include a requirement that the person be
 2-39 trained as a health care provider or have training in the control of
 2-40 infectious and communicable diseases.

2-41 (c) The entity that employs or uses the services of an
 2-42 emergency response employee or volunteer is responsible for
 2-43 notifying the local health authorities or local health care
 2-44 facilities, according to any local rules or procedures, that the
 2-45 entity has a designated infection control officer or alternate
 2-46 designated infection control officer.

2-47 Sec. 81.013. CONSIDERATION OF FEDERAL LAW AND REGULATIONS.
 2-48 The executive commissioner shall review the Ryan White HIV/AIDS
 2-49 Treatment Extension Act of 2009 (Pub. L. No. 111-87) or any
 2-50 successor law and any regulations adopted under the law and
 2-51 determine whether adopting by rule any part of the federal law or
 2-52 regulations is in the best interest of the state to further achieve
 2-53 the purposes of this chapter. If the executive commissioner
 2-54 determines that adopting the federal law or regulations is in the
 2-55 best interest of the state to further achieve the purposes of this
 2-56 chapter, the executive commissioner may by rule adopt all or a part
 2-57 of the federal law or regulations.

2-58 SECTION 5. Section 81.046(c), Health and Safety Code, is
 2-59 amended to read as follows:

2-60 (c) Medical or epidemiological information may be released:

2-61 (1) for statistical purposes if released in a manner
 2-62 that prevents the identification of any person;

2-63 (2) with the consent of each person identified in the
 2-64 information;

2-65 (3) to medical personnel treating the individual,
 2-66 appropriate state agencies in this state or another state, a health
 2-67 authority or local health department in this state or another
 2-68 state, or federal, county, or district courts to comply with this
 2-69 chapter and related rules relating to the control and treatment of

3-1 communicable diseases and health conditions or under another state
3-2 or federal law that expressly authorizes the disclosure of this
3-3 information;

3-4 (4) to appropriate federal agencies, such as the
3-5 Centers for Disease Control and Prevention of the United States
3-6 Public Health Service, but the information must be limited to the
3-7 name, address, sex, race, and occupation of the patient, the date of
3-8 disease onset, the probable source of infection, and other
3-9 requested information relating to the case or suspected case of a
3-10 communicable disease or health condition; ~~[or]~~

3-11 (5) to medical personnel to the extent necessary in a
3-12 medical emergency to protect the health or life of the person
3-13 identified in the information; or

3-14 (6) to a designated infection control officer.

3-15 SECTION 6. The heading to Section 81.048, Health and Safety
3-16 Code, is amended to read as follows:

3-17 Sec. 81.048. NOTIFICATION OF EMERGENCY RESPONSE EMPLOYEE OR
3-18 VOLUNTEER ~~[PERSONNEL, PEACE OFFICERS, DETENTION OFFICERS, COUNTY~~
3-19 ~~JAILERS, AND FIRE FIGHTERS]~~.

3-20 SECTION 7. Sections 81.048(b) and (c), Health and Safety
3-21 Code, and Section 81.048(g), Health and Safety Code, as amended by
3-22 S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are
3-23 amended to read as follows:

3-24 (b) Notice of a positive or negative test result for a
3-25 reportable disease designated under Subsection (a) shall be given
3-26 to an emergency response employee or volunteer ~~[medical service~~
3-27 ~~personnel, peace officer, detention officer, county jailer, or fire~~
3-28 ~~fighter]~~ as provided by this section if:

3-29 (1) the emergency response employee or volunteer
3-30 ~~[medical service personnel, peace officer, detention officer,~~
3-31 ~~county jailer, or fire fighter]~~ delivered a person to a hospital as
3-32 defined by Section 74.001, Civil Practice and Remedies Code;

3-33 (2) the hospital has knowledge that the person has a
3-34 reportable disease and has medical reason to believe that the
3-35 person had the disease when the person was admitted to the hospital;
3-36 and

3-37 (3) the emergency response employee or volunteer
3-38 ~~[medical service personnel, peace officer, detention officer,~~
3-39 ~~county jailer, or fire fighter]~~ was exposed to the reportable
3-40 disease during the course and scope of the person's employment or
3-41 service as a volunteer ~~[of duty]~~.

3-42 (c) Notice of the possible exposure shall be given:

3-43 (1) by the hospital to the local health authority;

3-44 (2) by the hospital to the designated infection
3-45 control officer of ~~[local health authority to the director of the~~
3-46 ~~appropriate department of]~~ the entity that employs or uses the
3-47 services of the affected emergency response employee or volunteer
3-48 ~~[emergency medical service personnel, peace officer, detention~~
3-49 ~~officer, county jailer, or fire fighter]~~; and

3-50 (3) by the local health authority or the designated
3-51 infection control officer of the entity that employs or uses the
3-52 services of the affected emergency response employee or volunteer
3-53 ~~[director]~~ to the employee or volunteer affected.

3-54 (g) A hospital that gives notice of a possible exposure
3-55 under Subsection (c) or a local health authority or designated
3-56 infection control officer that receives notice of a possible
3-57 exposure under Subsection (c) may give notice of the possible
3-58 exposure to a person other than the affected emergency response
3-59 employee or volunteer ~~[emergency medical personnel, a peace~~
3-60 ~~officer, a detention officer, a county jailer, or a fire fighter]~~ if
3-61 the person demonstrates that the person was exposed to the
3-62 reportable disease while providing emergency care. The executive
3-63 commissioner shall adopt rules to implement this subsection.

3-64 SECTION 8. Section 81.050(b), Health and Safety Code, as
3-65 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
3-66 2015, and Section 81.050(h), Health and Safety Code, are amended to
3-67 read as follows:

3-68 (b) A person whose occupation or whose volunteer service is
3-69 included in one or more of the following categories may request the

4-1 department or a health authority to order testing of another person
 4-2 who may have exposed the person to a reportable disease:
 4-3 (1) a law enforcement officer;
 4-4 (2) a fire fighter;
 4-5 (3) an emergency medical service employee or
 4-6 paramedic;
 4-7 (4) a correctional officer;
 4-8 (5) an employee, contractor, or volunteer, other than
 4-9 a correctional officer, who performs a service in a correctional
 4-10 facility as defined by Section 1.07, Penal Code, or a secure
 4-11 correctional facility or secure detention facility as defined by
 4-12 Section 51.02, Family Code; ~~or~~
 4-13 (6) an employee of a juvenile probation department; or
 4-14 (7) any other emergency response employee or
 4-15 volunteer.

4-16 (h) The department or the department's designee shall
 4-17 inform the person who requested the order and the designated
 4-18 infection control officer of the person who requested the order, if
 4-19 that person is an emergency response employee or volunteer, of the
 4-20 results of the test. If the person subject to the order is found to
 4-21 have a reportable disease, the department or the department's
 4-22 designee shall inform that person and the person who requested the
 4-23 order of the need for medical follow-up and counseling services.
 4-24 The department or the department's designee shall develop protocols
 4-25 for coding test specimens to ensure that any identifying
 4-26 information concerning the person tested will be destroyed as soon
 4-27 as the testing is complete.

4-28 SECTION 9. Sections 81.095(a) and (b), Health and Safety
 4-29 Code, are amended to read as follows:

4-30 (a) In a case of accidental exposure of a health care worker
 4-31 to blood or other body fluids of a patient in a licensed hospital,
 4-32 the hospital, following a report of the exposure incident, shall
 4-33 take reasonable steps to test the patient for hepatitis B, ~~or~~
 4-34 hepatitis C, HIV, or any reportable disease.

4-35 (b) This subsection applies only in a case of accidental
 4-36 exposure of certified emergency medical services personnel, an
 4-37 emergency response employee or volunteer [a firefighter, a peace
 4-38 officer], or a first responder who renders assistance at the scene
 4-39 of an emergency or during transport to the hospital to blood or
 4-40 other body fluids of a patient who is transported to a licensed
 4-41 hospital. The hospital receiving the patient, following a report
 4-42 of the exposure incident, shall take reasonable steps to test the
 4-43 patient for hepatitis B, ~~or~~ hepatitis C, HIV, or any reportable
 4-44 disease if the report shows there is significant risk to the person
 4-45 exposed. The organization that employs the person or for which the
 4-46 person works as a volunteer in connection with rendering the
 4-47 assistance is responsible for paying the costs of the test. The
 4-48 hospital shall provide the test results to the department or to the
 4-49 local health authority and to the designated infection control
 4-50 officer of the entity employing or using the services of an affected
 4-51 emergency response employee or volunteer, which are responsible for
 4-52 following the procedures prescribed by Section 81.050(h) to inform
 4-53 the person exposed and, if applicable, the patient regarding the
 4-54 test results. The hospital shall follow applicable reporting
 4-55 requirements prescribed by Subchapter C. This subsection does not
 4-56 impose a duty on a hospital to provide any further testing,
 4-57 treatment, or services or to perform further procedures.

4-58 SECTION 10. Section 81.0955(a), Health and Safety Code, and
 4-59 Section 89.055(b), Health and Safety Code, as amended by S.B. 219,
 4-60 Acts of the 84th Legislature, Regular Session, 2015, are amended to
 4-61 read as follows:

4-62 (a) This section applies only to the accidental exposure to
 4-63 the blood or other body fluids of a person who dies at the scene of
 4-64 an emergency or during transport to the hospital involving an
 4-65 emergency response employee or volunteer [certified emergency
 4-66 medical services personnel, a firefighter, a peace officer,] or
 4-67 another [a] first responder who renders assistance at the scene of
 4-68 an emergency or during transport of a person to the hospital.

4-69 (b) A hospital, certified emergency medical services

5-1 personnel, a justice of the peace, a medical examiner, or a
5-2 physician on behalf of the person exposed, following a report of the
5-3 exposure incident, shall take reasonable steps to have ~~test~~ the
5-4 deceased person tested for reportable ~~communicable~~ diseases. The
5-5 hospital, certified emergency medical services personnel, justice
5-6 of the peace, medical examiner, or physician shall provide the test
5-7 results to the department or to the local health authority and to
5-8 the designated infection control officer of an affected emergency
5-9 response employee or volunteer responsible for following the
5-10 procedures prescribed by Section 81.050(h) to inform the person
5-11 exposed, and, if applicable, the department or the local health
5-12 authority shall inform the next of kin of the deceased person
5-13 regarding the test results. The hospital, certified emergency
5-14 medical services personnel, medical examiner, or physician shall
5-15 follow applicable reporting requirements prescribed by Subchapter
5-16 C. This subsection does not impose a duty on a hospital, certified
5-17 emergency medical services personnel, a medical examiner, or a
5-18 physician to provide any further testing, treatment, or services or
5-19 to perform further procedures. This subsection does not impose a
5-20 duty on a justice of the peace to order that further testing,
5-21 treatment, or services be provided or further procedures be
5-22 performed. The executive commissioner shall adopt rules to
5-23 implement this subsection.

5-24 SECTION 11. Section 81.103(b), Health and Safety Code, is
5-25 amended to read as follows:

- 5-26 (b) A test result may be released to:
5-27 (1) the department under this chapter;
5-28 (2) a local health authority if reporting is required
5-29 under this chapter;
5-30 (3) the Centers for Disease Control and Prevention of
5-31 the United States Public Health Service if reporting is required by
5-32 federal law or regulation;
5-33 (4) the physician or other person authorized by law
5-34 who ordered the test;
5-35 (5) a physician, nurse, or other health care personnel
5-36 who have a legitimate need to know the test result in order to
5-37 provide for their protection and to provide for the patient's
5-38 health and welfare;
5-39 (6) the person tested or a person legally authorized
5-40 to consent to the test on the person's behalf;
5-41 (7) the spouse of the person tested if the person tests
5-42 positive for AIDS or HIV infection, antibodies to HIV, or infection
5-43 with any other probable causative agent of AIDS;
5-44 (8) a person authorized to receive test results under
5-45 Article 21.31, Code of Criminal Procedure, concerning a person who
5-46 is tested as required or authorized under that article;
5-47 (9) a person exposed to HIV infection as provided by
5-48 Section 81.050; ~~and~~
5-49 (10) a county or district court to comply with this
5-50 chapter or rules relating to the control and treatment of
5-51 communicable diseases and health conditions; and
5-52 (11) a designated infection control officer of an
5-53 affected emergency response employee or volunteer.

5-54 SECTION 12. Section 81.107(a), Health and Safety Code, as
5-55 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
5-56 2015, is amended to read as follows:

5-57 (a) In a case of accidental exposure to blood or other body
5-58 fluids under Section 81.102(a)(5)(D), the health care agency or
5-59 facility may test a person who may have exposed the health care
5-60 worker or other emergency response employee or volunteer to HIV
5-61 without the person's specific consent to the test.

5-62 SECTION 13. Not later than December 1, 2015, the executive
5-63 commissioner of the Health and Human Services Commission shall
5-64 adopt the rules required by Section 81.012, Health and Safety Code,
5-65 as added by this Act.

5-66 SECTION 14. This Act takes effect September 1, 2015.

5-67 * * * * *