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| BILL ANALYSIS |

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| C.S.H.B. 103 |
| By: Dutton |
| Homeland Security & Public Safety |
| Committee Report (Substituted) |

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| **BACKGROUND AND PURPOSE**  Interested parties note that the United States Constitution protects against unreasonable searches and seizures but contend that state law generally preventing law enforcement from conducting searches without a proper search warrant does not sufficiently protect against constitutional violations. C.S.H.B. 103 seeks to address this issue by expanding the circumstances under which a peace officer is prohibited from conducting warrantless body cavity searches. |
| **CRIMINAL JUSTICE IMPACT**  It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY**  It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution. |
| **ANALYSIS**  C.S.H.B. 103 amends the Code of Criminal Procedure to expand the circumstances under which a peace officer is prohibited from conducting a body cavity search without a search warrant from during a traffic stop to any time other than when a person is confined in or committed to a penal institution or held in a place of detention and to remove statutory language excluding a pat-down from the types of inspections considered to be a body cavity search. The bill defines "penal institution" as a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice or the Texas Juvenile Justice Department, a juvenile secure pre-adjudication or post-adjudication facility operated by or under a local juvenile probation department, or a county or municipal jail and defines "place of detention" as a police station or other building that is a place of operation for a law enforcement agency and is owned or operated by the agency for the purpose of detaining persons in connection with the suspected violation of a penal law. |
| **EFFECTIVE DATE**  September 1, 2017. |
| **COMPARISON OF ORIGINAL AND SUBSTITUTE**  While C.S.H.B. 103 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill. |
| | INTRODUCED | HOUSE COMMITTEE SUBSTITUTE | | --- | --- | | SECTION 1. Article 18.24, Code of Criminal Procedure, is amended to read as follows:  Art. 18.24. BODY CAVITY SEARCH OF CERTAIN PERSONS [~~DURING TRAFFIC STOP~~]. (a) In this article:  (1) "Body [~~, "body~~] cavity search" means an inspection that is conducted of a person's anal or vaginal cavity in any manner[~~, but the term does not include a pat-down~~].  (2) "Penal institution" means a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice, a confinement facility operated by or under contract with the Texas Juvenile Justice Department, or a juvenile secure pre-adjudication or post-adjudication facility operated by or under a local juvenile probation department, or a county jail.  (b) Notwithstanding any other law, a peace officer may not conduct a body cavity search of a person other than a person confined in or committed to a penal institution [~~during a traffic stop~~] unless the officer first obtains a search warrant pursuant to this chapter authorizing the body cavity search. | SECTION 1. Article 18.24, Code of Criminal Procedure, is amended to read as follows:  Art. 18.24. BODY CAVITY SEARCH OF CERTAIN PERSONS [~~DURING TRAFFIC STOP~~]. (a) In this article:  (1) "Body [~~, "body~~] cavity search" means an inspection that is conducted of a person's anal or vaginal cavity in any manner[~~, but the term does not include a pat-down~~].  (2) "Penal institution" means a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice, a confinement facility operated by or under contract with the Texas Juvenile Justice Department, a juvenile secure pre-adjudication or post-adjudication facility operated by or under a local juvenile probation department, or a county or municipal jail.  (3) "Place of detention" means a police station or other building that is a place of operation for a law enforcement agency, including a municipal police department or county sheriff's department, and is owned or operated by the law enforcement agency for the purpose of detaining persons in connection with the suspected violation of a penal law.  (b) Notwithstanding any other law, a peace officer may not conduct a body cavity search of a person other than a person confined in or committed to a penal institution or held in a place of detention [~~during a traffic stop~~] unless the officer first obtains a search warrant pursuant to this chapter authorizing the body cavity search. | | SECTION 2. This Act takes effect September 1, 2017. | SECTION 2. Same as introduced version. | |