

BILL ANALYSIS

S.B. 1616
By: Bettencourt
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the use of emergency powers during the COVID-19 pandemic by political subdivisions to impose restrictions and criminal penalties on Texas citizens, business owners and their employees, school children and their families while also using those powers to release certain people from jail. In many cases, these political subdivisions were found to have exceeded the emergency powers granted to them under state law. S.B. 1616 seeks to address these concerns by amending the Texas Disaster Act of 1975 to limit the scope of provisions relating to local and interjurisdictional emergency management and amending the Communicable Disease Prevention and Control Act to replace certain criminal penalties with civil penalties.

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

S.B. 1616 amends the Health and Safety Code to remove language creating criminal offenses and imposing criminal penalties under the Communicable Disease Prevention and Control Act for the following conduct and instead impose a civil penalty capped at \$500 for each category of the conduct:

- conduct that constitutes the third degree felony offense of knowing failure or refusal to obey a rule, order, or instruction of the Department of State Health Services (DSHS) or an order or instruction of a health authority issued under a DSHS rule and published during an area quarantine;
- conduct that constitutes the Class B misdemeanor offense of knowing refusal to perform or allow the performance of certain DSHS or health authority control measures;
- conduct that constitutes the Class B misdemeanor offense of knowing or intentional removal, alteration, or attempted removal or alteration of an object the actor knows to be a quarantine device, notice, or security item in a certain manner; or destruction of such a device, notice, or security item; and
- conduct that constitutes the Class A misdemeanor or third degree felony offense, as applicable, of knowingly or intentionally transporting or causing to be transported into Texas, before giving certain notice to DSHS or a health authority, any of the following:
 - an object the person knows or suspects may be infected or contaminated with a communicable disease that is a threat to the public health;
 - an individual who the person knows has or is the carrier of such a disease; or

- a person, animal, or object in a private or common carrier or a private conveyance that the person knows is or suspects may be infected or contaminated with such a disease.

S.B. 1616 authorizes the attorney general or the applicable district or county attorney, on request of DSHS or a health authority, to sue to collect the civil penalty with respect to each of those categories of conduct and to recover reasonable investigation costs, attorney's fees, and applicable witness and deposition fees.

S.B. 1616 amends the Government Code to exclude an epidemic and the spread of a communicable disease from the term "disaster" for purposes of provisions of the Texas Disaster Act of 1975 relating to local and interjurisdictional emergency management. The bill exempts from those provisions a "public health disaster," as that term is defined under the Communicable Disease Prevention and Control Act.

EFFECTIVE DATE

September 1, 2021.