

BILL ANALYSIS

Senate Research Center

H.B. 438
By: Alvarado (Whitmire)
Criminal Justice
5-16-97
Committee Report (Amended)

DIGEST

Currently, Texas does not have a program to test for drugs inside prisons. Frequently, drugs may be smuggled into Texas jails and prisons, creating a breach of security. Objective data on the availability of drugs in prison could serve as a useful measure to evaluate the security of each prison unit and identify promising areas for investigations of fraud and abuse. Random inmate drug tests are widely used because they have proven to be an effective security tool for managing incarceration facilities. This bill will provide for the implementation of a controlled substances testing program to be administered to inmates housed in facilities operated by or under contract with the Texas Department of Criminal Justice.

PURPOSE

As proposed, H.B. 438 provides for the implementation of a controlled substances testing program to be administered to inmates housed in facilities operated by or under contract with the Texas Department of Criminal Justice.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 500, Government Code, by adding Section 500.007, as follows:

Sec. 500.007. TESTING FOR CONTROLLED SUBSTANCES. Requires the Texas Department of Criminal Justice (department), after consultation with the Criminal Justice Policy Council, to implement a program to randomly test, for the purpose of determining the presence of controlled substances, the breath, blood, or other bodily substances of inmates housed in facilities operated by or under contract with the department. Requires the department to annually test not less than five percent of the inmates housed in facilities operated by or under contract with the department. Requires the department to use the most cost-effective means possible to perform the tests required by this section and to actively seek grants from the federal government or other sources to expand the program created under this section. Authorizes the department, if the department performs a test and determines the presence of a controlled substance in an inmate, in return for the cooperation of the inmate in identifying the individual who delivered the controlled substance, to defer or dismiss punitive actions that the department could otherwise take against the inmate.

SECTION 2. Requires the department to implement this program not later than 90 days after the date on which the department receives federal funds that may be expended for the purpose of testing inmates for the presence of controlled substances, and requires the board to begin testing inmates for the presence of controlled substances not later than that date.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

- (1) On page 1, line 9, strike "board" and substitute "department".
- (2) On page 1, line 10, strike "by rule".