

BILL ANALYSIS

Senate Research Center
83R552 GCB-D

H.B. 434
By: Riddle (Whitmire)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, only a physician, qualified technician, chemist, registered nurse, or licensed vocational nurse is authorized to take a blood specimen at the request or order of a peace officer for purposes of intoxication-related offenses. Satisfying this requirement involves transporting the individual suspected of committing the offense to a facility, such as a hospital, which demands additional time and resources. In an effort to minimize the time and costs spent on blood draws under these circumstances, H.B. 434 revises the list of persons who are authorized to take a blood specimen at a peace officer's request or order.

H.B. 434 amends the Transportation Code to authorize a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic to take a blood specimen at a peace officer's request or order under statutory provisions regarding the implied consent of a person arrested for certain intoxication-related offenses to submit to the taking of a specimen. The bill conditions that authority on authorization by the medical director for the entity that employs the technician-intermediate or technician-paramedic.

H.B. 434 requires the taking of the specimen to be according to a protocol developed by the medical director that provides direction to the technician-intermediate or technician-paramedic for the taking of a blood specimen at a peace officer's request or order. The bill authorizes such a developed protocol to address whether a technician-intermediate or technician-paramedic engaged in the performance of official duties is entitled to refuse to go to the location of a person from whom a peace officer requests or orders the taking of a blood specimen solely for the purpose of taking that blood specimen; to refuse to take a blood specimen if the technician-intermediate or technician-paramedic reasonably believes that complying with the peace officer's request or order to take the specimen would impair or interfere with the provision of patient care or the performance of other official duties; or to refuse to provide the equipment or supplies necessary to take a blood specimen. The bill requires a peace officer to observe the taking of the specimen by a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic at a peace officer's request or order and to immediately take possession of the specimen for purposes of establishing a chain of custody.

H.B. 434 removes a chemist from the persons authorized to take a blood specimen at a peace officer's request or order for purposes of implied consent.

H.B. 434 amends current law relating to the persons authorized to take a blood specimen from a vehicle operator to test for alcohol concentration or other intoxicating substances.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 724.017, Transportation Code, to read as follows:

Sec. 724.017. TAKING OF BLOOD SPECIMEN.

SECTION 2. Amends Section 724.017, Transportation Code, by amending Subsections (a) and (c) and adding Subsections (a-1), (c-1), and (c-2), as follows:

(a) Authorizes only a physician, a qualified technician, a registered professional nurse, a licensed vocational nurse, or a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic authorized to take a blood specimen under Subsection (c) to take a blood specimen at the request or order of a peace officer under this chapter. Deletes existing text authorizing a chemist to take a blood specimen at the request or order of a peace officer under this chapter.

(a-1) Creates this subsection from existing text of Subsection (a) and makes no further change.

(c) Authorizes a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic to take a blood specimen only if authorized by the medical director for the entity that employs the technician-intermediate or technician-paramedic. Requires that the specimen be taken according to a protocol developed by the medical director that provides direction to the technician-intermediate or technician-paramedic for the taking of a blood specimen at the request or order of a peace officer. Defines "medical director" in this section. Deletes existing text providing that, in this section, "qualified technician" does not include emergency medical services personnel.

(c-1) Authorizes a protocol developed under Subsection (c) to address whether an emergency medical technician-intermediate or emergency medical technician-paramedic engaged in the performance of official duties is entitled to refuse to:

(1) go to the location of a person from whom a peace officer requests or orders the taking of a blood specimen solely for the purpose of taking that blood specimen;

(2) take a blood specimen if the technician-intermediate or technician-paramedic reasonably believes that complying with the peace officer's request or order to take the specimen would impair or interfere with the provision of patient care or the performance of other official duties; or

(3) provide the equipment or supplies necessary to take a blood specimen.

(c-2) Requires a peace officer, if a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic takes a blood specimen at the request or order of a peace officer, to observe the taking of the specimen, and immediately take possession of the specimen for purposes of establishing a chain of custody.

SECTION 3. Effective date: September 1, 2013.