

BILL ANALYSIS

Senate Research Center
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H.B. 1595
By: Murr; Thompson, Ed (Whitmire)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that current law requires a detainee to be tested for infectious diseases if the detainee's bodily fluids come into contact with a peace officer, provided the contact was instigated by the detainee, and requires that the notification of the test results be provided to the peace officer. However, these parties believe that current law does not adequately provide the same protection for magistrates or correctional facility employees. H.B. 1595 seeks to remedy this situation.

H.B. 1595 amends the Code of Criminal Procedure to require defendants or confined persons, both for felonies and misdemeanors, to be tested for communicable diseases if a peace officer comes into contact with the person's bodily fluids during a judicial proceeding or while the defendant is confined after conviction or adjudication resulting from arrest.

H.B. 1595 amends current law relating to testing certain defendants or confined persons for communicable diseases.

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 Article 18.22, Code of Criminal Procedure, to read as follows:

Art. 18.22. TESTING CERTAIN DEFENDANTS OR CONFINED PERSONS FOR COMMUNICABLE DISEASES.

SECTION 2. Amends Article 18.22, Code of Criminal Procedure, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Requires a person who is arrested for a misdemeanor or felony and who during the commission of that offense or the arrest, during a judicial proceeding or initial period of confinement following the arrest, or during the person's confinement after a conviction or adjudication resulting from the arrest causes the person's bodily fluids to come into contact with a peace officer, a magistrate, or an employee of a correctional facility where the person is confined to, at the direction of the court having jurisdiction over the arrested person, undergo a medical procedure or test designed to show or help show whether the person has a communicable disease. Authorizes the court to direct the person to undergo the procedure or test on its own motion or on the request of the peace officer, magistrate, or correctional facility employee. Requires the court, if the person refuses to submit voluntarily to the procedure or test, to require the person to submit to the procedure or test. Requires the person performing the procedure or test, notwithstanding any other law, to make the test results available to the local health authority, and requires the local health authority to notify the peace officer, magistrate, or correctional facility employee, as appropriate, of the test result. Prohibits the state from using the fact that a medical

procedure or test was performed on a person under this article, or use the results of the procedure or test, in any criminal proceeding arising out of the alleged offense.

Deletes existing text requiring a person who is arrested for a misdemeanor or felony and who during the commission of that offense or an arrest following the commission of that offense causes to come into contact with the person's bodily fluids to, at the direction of the court having jurisdiction over the arrested person, undergo a medical procedure or test designed to show or help show whether the person has a communicable disease.

(b) Requires that testing under this article be conducted in accordance with written infectious disease control protocols adopted by the Department of State Health Services, rather than the Texas Board of Health, that clearly establish procedural guidelines that provide criteria for testing and that respect the rights of the arrested person and the peace officer, magistrate, or correctional facility employee.

(d) Defines, in this article, "correctional facility."

SECTION 3. Provides that the change in law made by this Act applies to a motion by the court or request of a magistrate or correctional facility employee made on or after the effective date of this Act, regardless of whether the offense for which the person was arrested or the applicable contact with bodily fluids occurred before, on, or after that date.

SECTION 4. Effective date: upon passage or September 1, 2015.