

- SUBJECT:** Court orders and control measures for managing communicable diseases
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 9 ayes — Delisi, Laubenberg, Jackson, Cohen, Coleman, Gonzales, S. King, Olivo, Truitt
- 0 nays
- SENATE VOTE:** On final passage, April 12 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — Elizabeth Love, Harris County Public Health and Environmental Services; Umair A. Shah, Harris County Public Health and Environmental Services; (*Registered, but did not testify*: Michael Vasquez, Texas Conference of Urban Counties)
- Against — None
- On — Matthew T. Wall, Texas Hospital Association; (*Registered, but did not testify*: Charles Wallace, Department of State Health Services)
- BACKGROUND:** Health and Safety Code, ch. 81, subch. E governs control of communicable diseases. Sec. 81.082(a) grants a regional health authority supervisory authority and control over the administration of communicable disease control measures in the health authority's jurisdiction unless specifically preempted by the Department of State Health Services (DSHS).
- Under sec. 81.083, DSHS or a local health authority has the power to implement reasonable and necessary control measures if it has reasonable cause to believe that an individual is ill with, has been exposed to, or is the carrier of a communicable disease. An individual could be subject to a court order under ch. 81, subch. G to manage the communicable disease if:
- the person, or the parent or guardian if the person is a minor, does not comply with the written orders of DSHS or a health authority;
- or

- a public health disaster exists and the person indicates that he or she will not comply voluntarily with control measures.

DIGEST:

CSSB 810 would amend Health and Safety Code, ch. 81 to expand the powers of a regional health authority and DSHS in their attempts to limit the spread of a contagious disease.

Under sec. 81.083, a health authority could request the isolation and quarantine of a group of five or more individuals upon providing written notice to each individual in the group delivered personally or by registered or certified mail. If the name and address of a group member were unknown, notice also could be published notice in a local newspaper. The notice would have to contain the following information:

- that the regional health authority or DSHS had reasonable cause to believe that a group of individuals was ill with or had been exposed to a communicable disease;
- the time and place of the exposure;
- a copy of any orders given in response to the exposure or infection of a group of people;
- instructions to the individuals to provide their name and place or residence to DSHS or the regional health authority;
- that DSHS or the health authority could request an application for quarantine or commitment to a health facility from the court; and
- that a criminal penalty applies to an individual who is a member of the group and knowingly refuses to comply with the control measures.

If it were necessary to apply for a court order to manage suspected disease exposure involving five or more people, a single application could be filed for a group if each person in the group met the criteria under which a court order could be issued. To the extent possible, the provisions of subch. G, which governs court orders for the management of persons with communicable diseases, would apply to a group in the same way it applied to an individual.

A group application would have to contain the following information according to the applicant's information and belief:

- a description of the group, the number of members, and the location where they could be found;

- a narrative of how the group had been exposed or infected; and
- to the extent known, the name, address, and county of residence of each member.

If the applicant were unable to obtain the name and address of each member of the group, the application would need to contain:

- a statement that the applicant had sought each of the names and addresses;
- the reason that the names and addresses were unavailable; and
- a statement, to be included only in an application for inpatient treatment, that the members of the group failed or refused to comply with written orders of the DSHS or the health authority under Section 81.083, if applicable.

A judge or magistrate could issue a temporary custody order before an application for a court order was filed if the judge:

- took testimony that an application for a court order, together with a motion for protective custody, would be filed with the court on the next business day, and
- determined that there was probable cause to believe that the person presented a substantial risk of serious harm to the person or others that warranted the temporary custody order.

The temporary order could only last until 4 p.m. on the first business day after the date the order was issued. However, an order could be prolonged for the period reasonably necessary for the court to rule on the motion for protective custody.

The judge could postpone a probable cause hearing for a person under protective custody due to circumstances surrounding a disaster. A person in custody believed to be contagious could not appear at a hearing in person but would be allowed to speak, interact with witnesses, and confer with an attorney via teleconference or another means as determined by the judge. This also would apply to a hearing on an application for a court order.

A judge could commit a person to a private health facility at no expense to the state, county, municipality, or hospital district if:

- the area was under quarantine or a public health disaster had been declared;
- the facility was located within the area of quarantine or disaster; and
- the judge determined that no other facility in the area had the capacity to treat the person.

A health care facility could seek reimbursement from a third-party public or private payor or disaster relief fund for reimbursement for services provided to an individual committed under this bill.

The bill would also allow a regional health authority to designate health care facilities within the jurisdiction that were capable of providing examination, quarantine, isolation and treatment services during a public health disaster or mandatory quarantine. The regional health authority could not designate a nursing home or an intermediate care facility for the mentally retarded.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**NOTES:**

The House committee substitute added language to the Senate-passed version that would allow a health care facility to seek reimbursement from a third-party for costs incurred as a result of an individual committed as a result of possible exposure to a communicable disease.