

BILL ANALYSIS

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S.B. 1574
By: Uresti
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Emergency response employees (ERE) do not have the same rights that peace officers currently have to ask that a court order testing for disease of a person whose bodily fluids the ERE came in contact with during an arrest. Further, EREs and volunteers are not receiving timely notification that they have been exposed to a disease once the presence is confirmed. EREs are often informed that they will be called with the results in a few days or more. There is anxiety about contracting a disease, and concern exists as to how a disease will affect family members.

Delay in the disclosure of the source patient's lab can result in unnecessary treatment. HIV medications have significant side effects but delay in starting the treatment will reduce the odds of preventing disease transmission. HIV post-exposure medication is 80 percent effective in preventing disease transmission if started within two hours of the exposure.

Treatment for suspected cases of exposure to bacterial meningitis often results in unnecessary precautionary antibiotic treatment since it takes 24 to 48 hours to confirm the pathogen involved.

S.B. 1574 allows EREs to receive the information peace officers are entitled to when they come into contact with bodily fluids during the course or scope of their employment.

S.B. 1574 allows a designated infection control officer to communicate freely with hospitals, healthcare providers, medical examiners, and funeral directors to obtain the source patient and first responder lab results as it pertains to exposures to diseases in a more timely manner.

The changes in statute will allow the designated officer to interact and expedite post exposure management of first responders and document accordingly, ultimately saving lives.

As proposed, S.B. 1574 amends current law relating to emergency response employees or volunteers and others exposed or potentially exposed to certain diseases or parasites.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 4 (Sections 81.012 and 81.013, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 7 (Section 81.048, Health and Safety Code) and SECTION 10 (Section 81.0955, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 18.22(a), Code of Criminal Procedure, as follows:

(a) Requires 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 an emergency response employee or volunteer, as defined by Section 81.003, Health and Safety Code, rather than a peace officer, to come into contact with the person's bodily fluids, at the direction of the court having jurisdiction over the arrested person, to 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 emergency response employee or volunteer, rather than the peace officer. Requires the person performing the procedure or test, notwithstanding any other law, to make the test results available to the local health authority and the designated infection control officer of the affected emergency response employee or volunteer, and the local health authority or the designated infection control officer of the affected employee or volunteer is required to notify the emergency response employee or volunteer of the test result. Makes a conforming change.

SECTION 2. Amends Section 607.102, Government Code, as follows:

Sec. 607.102. NOTIFICATION. Entitles an emergency response employee or volunteer, as defined by Section 81.003, Health and Safety Code, rather than a firefighter or medical technician, who is exposed to methicillin-resistant *Staphylococcus aureus* or a disease caused by a select agent or toxin identified or listed under 42 C.F.R. Section 73.3 to receive notification of the exposure in the manner prescribed by Section 81.048, Health and Safety Code.

SECTION 3. Amends Section 81.003, Health and Safety Code, by adding Subdivisions (1-a), (1-b), and (1-c) to define “emergency response employee or volunteer,” “executive commissioner,” and “designated infection control officer.”

SECTION 4. Amends Subchapter A, Chapter 81, Health and Safety Code, by adding Sections 81.012 and 81.013, as follows:

Sec. 81.012. DESIGNATED INFECTION CONTROL OFFICER. (a) Requires an entity that employs or uses the services of an emergency response employee or volunteer to nominate a designated infection control officer and an alternate designated infection control officer to:

- (1) receive notification of a potential exposure to an infectious disease from a health care facility;
- (2) notify the appropriate health care providers of a potential exposure to an infectious disease;
- (3) act as a liaison between the entity's emergency response employees or volunteers who may have been exposed to a reportable disease during the course and scope of employment or service as a volunteer;
- (4) investigate and evaluate an exposure incident, using current evidence-based information on the possible risks of communicable disease presented by the exposure incident; and
- (5) monitor all follow-up treatment provided to the affected emergency response employee or volunteer, in accordance with applicable federal, state, and local law.

(b) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules for the Texas Department of Health (TDH) to approve the designated infection control officer and alternate designated infection control officer nominated under Subsection (a).

Sec. 81.013. CONSIDERATION OF FEDERAL LAW AND REGULATIONS. Requires the executive commissioner to review the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. No. 111-87) or any successor law and any regulations adopted under the law and determine whether adopting by rule any part of the federal law or regulations is in the best interest of the state to further achieve the purposes of this chapter. Authorizes the executive commissioner, if the executive commissioner determines that adopting the federal law or regulations is in the best interest of the state to further achieve the purposes of this chapter, to by rule adopt all or a part of the federal law or regulations.

SECTION 5. Amends Section 81.046(c), Health and Safety Code, to authorize medical or epidemiological information to be released to a designated infection control officer in addition to certain persons and entities as set forth.

SECTION 6. Amends the heading to Section 81.048, Health and Safety Code, to read as follows:

Sec. 81.048. NOTIFICATION OF EMERGENCY RESPONSE EMPLOYEE OR VOLUNTEER.

SECTION 7. Amends Sections 81.048(b), (c), and (g), Health and Safety Code, as follows:

(b) Requires that notice of a positive test result for a reportable disease designated under Subsection (a) be given to an emergency response employee or volunteer, rather than the emergency medical service personnel, peace officer, detention officer, county jailer, or fire fighter, as provided by this section if:

(1) the emergency response employee or volunteer delivered a person to a hospital as defined by Section 74.001 (Definitions), Civil Practice and Remedies Code;

(2) Makes no change to this subdivision; and

(3) the emergency response employee or volunteer was exposed to the reportable disease during the course and scope of the person's employment or service as a volunteer, rather than during the course of duty.

Makes conforming changes.

(c) Requires that notice of the possible exposure be given:

(1) by the hospital to the local health authority;

(2) by the hospital to the designated infection control officer of the entity that employs or uses the services of the affected emergency response employee or volunteer, rather than by the local health authority to the director of the appropriate department of the entity that employs the emergency medical service personnel, peace officer, detention officer, county jailer, or fire fighter; and

(3) by the local health authority or the designated infection control officer of the entity that employs or uses the services of the affected emergency response employee or volunteer to the employee or volunteer affected, rather than by the director of the appropriate department to the employee affected.

(g) Authorizes a hospital that gives notice of a possible exposure under Subsection (c) or a local health authority or designated infection control officer that receives notice of a possible exposure under Subsection (c) to give notice of the possible exposure to a person other than the affected emergency response employee or volunteer, rather than other than emergency medical personnel, a peace officer, a detention officer, a county jailer, or a fire fighter, if the person demonstrates that the person was exposed to the reportable disease while providing emergency care.

SECTION 8. Amends Sections 81.050(b) and (h), Health and Safety Code, as follows:

(b) Includes any other emergency response employee or volunteer among the persons who are authorized to request TDH or a health authority to order testing of another person who may have exposed the person to a reportable disease, including HIV infection.

(h) Requires TDH or TDH's designee to inform person who requested the order and the designated infection control officer of the person who requested the order, if that person is an emergency response employee or volunteer, of the results of the test. Makes no further change to this subsection.

SECTION 9. Amends Sections 81.095(a) and (b), Health and Safety Code, as follows:

(a) Requires the hospital, in a case of accidental exposure of a health care worker to blood or other body fluids of a patient in a licensed hospital, to take reasonable steps to test the patient for hepatitis B, hepatitis C, HIV, or any reportable disease or parasite following a report of the exposure incident.

(b) Provides that this subsection applies only in a case of accidental exposure of certified emergency medical services personnel, an emergency response employee or volunteer, rather than a firefighter or a peace officer, or a first responder who renders assistance at the scene of an emergency or during transport to the hospital to blood or other body fluids of a patient who is transported to a licensed hospital. Requires the hospital receiving the patient, following a report of the exposure incident, to take reasonable steps to test the patient for hepatitis B, hepatitis C, HIV, or any reportable disease or parasite if the report shows there is significant risk to the person exposed. Requires the hospital to provide the test results to TDH or to the local health authority and to the designated infection control officer of the entity employing or using the services of an affected emergency response employee or volunteer, which are responsible for following the procedures prescribed by Section 81.050(h) to inform the person exposed and, if applicable, the patient regarding the test results.

SECTION 10. Amends Sections 81.0955(a) and (b), Health and Safety Code, as follows:

(a) Provides that this section applies only to the accidental exposure to the blood or other body fluids of a person who dies at the scene of an emergency or during transport to the hospital involving an emergency response employee or volunteer, or another first responder who renders assistance at the scene of an emergency or during transport of a person to the hospital, rather than involving certified emergency medical services personnel, a firefighter, a peace officer, or a first responder who renders assistance at the scene of an emergency or during transport of a person to the hospital.

(b) Requires a hospital, certified emergency medical services personnel, justice of the peace, medical examiner, or a physician on behalf of the person exposed, following a report of the exposure incident, to take reasonable steps to have the deceased person tested for communicable diseases. Requires the hospital, certified emergency medical services personnel, justice of the peace, medical examiner, or physician to provide the test results to TDH or to the local health authority and to the designated infection control officer of an affected emergency response employee or volunteer responsible for following the procedures prescribed by Section 81.050(h) to inform the person exposed. Requires TDH or the local health authority, if applicable, to inform the next of kin of the deceased person regarding the test results. Provides that this subsection does not impose a duty on a hospital, certified emergency medical services personnel, medical examiner, or a physician to provide any further testing, treatment, or services or to perform further procedures. Provides that this subsection does not impose a duty on a justice of the peace to order that further testing, treatment, or services be provided or further procedures be performed.

SECTION 11. Amends Section 81.102(c), Health and Safety Code, to change a reference to Subsection (a)(4)(D) to Subsection (a)(5)(D) (relating to a medical procedure or test to manage accidental exposure to blood or other body fluids) and makes no further change.

SECTION 12. Amends Section 81.103(b), Health and Safety Code, to include a designated infection control officer of an affected emergency response employee or volunteer among the persons and entities to which test results are authorized to be released.

SECTION 13. Amends Section 81.107(a), Health and Safety Code, to authorize the health care agency or facility, in a case of accidental exposure to blood or other body fluids under Section 81.102(a)(5)(D), rather than Section 81.102(a)(4)(D), to test a person who may have exposed the health care worker or other emergency response employee or volunteer to HIV without the person's specific consent to the test.

SECTION 14. Requires the executive commissioner to adopt the rules required by Section 81.012, Health and Safety Code, as added by this Act, not later than December 1, 2015.

SECTION 15. Effective date: September 1, 2015.