

By: Murr, Thompson of Brazoria

H.B. No. 1595

A BILL TO BE ENTITLED

AN ACT

relating to testing certain defendants or confined persons for communicable diseases.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Article 18.22, Code of Criminal Procedure, is amended to read as follows:

Art. 18.22. TESTING CERTAIN DEFENDANTS OR CONFINED PERSONS FOR COMMUNICABLE DISEASES [~~FOLLOWING CERTAIN ARRESTS~~].

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

(a) A person who is arrested for a misdemeanor or felony and who during the commission of that offense or the [an] 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 [~~commission of that offense~~] 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 come into contact with the person's bodily fluids~~] shall, 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. The court may direct the person to undergo the procedure or test on its own motion or on the request of the

1 peace officer, magistrate, or correctional facility employee. If  
 2 the person refuses to submit voluntarily to the procedure or test,  
 3 the court shall require the person to submit to the procedure or  
 4 test. Notwithstanding any other law, the person performing the  
 5 procedure or test shall make the test results available to the local  
 6 health authority, and the local health authority shall notify the  
 7 peace officer, magistrate, or correctional facility employee, as  
 8 appropriate, of the test result. The state may not use the fact  
 9 that a medical procedure or test was performed on a person under  
 10 this article, or use the results of the procedure or test, in any  
 11 criminal proceeding arising out of the alleged offense.

12 (b) Testing under this article shall be conducted in  
 13 accordance with written infectious disease control protocols  
 14 adopted by the Department [~~Texas Board~~] of State Health Services  
 15 that clearly establish procedural guidelines that provide criteria  
 16 for testing and that respect the rights of the arrested person and  
 17 the peace officer, magistrate, or correctional facility employee.

18 (d) In this article, "correctional facility" means:

19 (1) any place described by Section 1.07(a)(14), Penal  
 20 Code; or

21 (2) a "secure correctional facility" or "secure  
 22 detention facility" as those terms are defined by Section 51.02,  
 23 Family Code.

24 SECTION 3. The change in law made by this Act applies to a  
 25 motion by the court or request of a magistrate or correctional  
 26 facility employee made on or after the effective date of this Act,  
 27 regardless of whether the offense for which the person was arrested

1 or the applicable contact with bodily fluids occurred before, on,  
2 or after that date.

3       SECTION 4. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2015.