

## **BILL ANALYSIS**

S.B. 779  
By: Huffman  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

In cases relating to a criminal offense involving the transmission of a communicable disease, medical records are required in order to properly charge a defendant of an alleged offense. There is concern that certain provisions of the federal Health Insurance Portability and Accountability Act and the Texas Health and Safety Code that place limitations on the release of health information create a situation in which prosecutors are unable to legally access the defendant's medical records and are unable to prove in court that the defendant is HIV positive and knowingly transmitted the disease to the victims in the commission of the offense. S.B. 779 seeks to address this issue while maintaining appropriate patient privacy protections.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 779 amends the Health and Safety Code to establish that a test result, defined by statute as any statement that indicates that an identifiable individual has or has not been tested for AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS, including a statement or assertion that the individual is positive, negative, at risk, or has or does not have a certain level of antigen or antibody, is subject to and may be released or disclosed under certain subpoenas issued in a criminal proceeding. The bill grants a person who releases or discloses a test result in response to such a subpoena immunity from criminal or civil liability or professional disciplinary action for releasing or disclosing the test result, except in a case of gross negligence or wilful misconduct. The bill requires a court in which a test result obtained by subpoena is to be presented as evidence or otherwise released or disclosed to issue a protective order or take other action to limit the release or disclosure of the test result before entering into evidence or otherwise releasing or disclosing the test result. The bill requires the court responsible for a grand jury, for a test result obtained under a grand jury subpoena, to issue the order or take other action to limit the release or disclosure of the test result before the test result is presented to the grand jury.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.