

**SUBJECT:** Requiring testing of certain arrestees for communicable diseases

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 8 ayes — Keel, Riddle, Ellis, Denny, Dunnam, Hodge, Pena, Talton  
0 nays  
1 absent — P. Moreno

**SENATE VOTE:** On final passage, May 5 — 31-0, on Local and Uncontested Calendar

**WITNESSES:** No public hearing

**BACKGROUND:** Under Code of Criminal Procedure, art. 18.22(a), a person arrested for evading arrest or detention and who, during the commission of the offense, bites a peace officer or otherwise causes the officer to come into contact with the arrestee's bodily fluids must be tested to find out if the person has a communicable disease. A court must require testing of a person who refuses to submit voluntarily to testing. Test results must be given to the local health authority, which must notify the peace officer.

**DIGEST:** SB 1835 would require testing for communicable disease of anyone who was arrested for a misdemeanor or felony and who, during the offense or arrest, caused a peace officer to come into contact with the person's bodily fluids.

The bill would take effect September 1, 2003.

**SUPPORTERS SAY:** SB 1835 would ensure that peace officers would know whether they had been exposed to a communicable disease when arresting any criminal defendant, not just those arrested for evading arrest. Problems have arisen when officers were exposed to defendants' bodily fluids but the courts had no authority to order the defendant to be tested. For example, in the course of making an arrest, a drug task force officer came into contact with a needle, but since the defendant was not evading arrest, the court had no authority to order testing. SB 1835 would address this problem by allowing testing in connection with any offense if the officer was exposed to the arrestee's bodily fluids.

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SB 1835 would not allow the wholesale testing of all defendants but would apply only to situations in which the officer came into contact with bodily fluids. Peace officers put themselves at risk to protect society and should have the basic protection of knowing whether they have been exposed to communicable diseases.

OPPONENTS  
SAY:

No apparent opposition.