

SUBJECT: Taking blood sample on arrest for intoxication offenses involving driving

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 8 ayes — White, Bowers, Goodwin, Harless, Hefner, E. Morales, Patterson, Tinderholt

1 nay — Schaefer

WITNESSES: For — Terry Meza, Texas House of Representatives; Michaelle Carney; Dwayne Carney; Rhonda Nail; John Palmer; (*Registered, but did not testify*: Dee Chambless; Detrese Harkey; Elva Mendoza)

Against — Frank Sellers, Texas Criminal Defense Lawyers Association; (*Registered, but did not testify*: Shea Place, Texas Criminal Defense Lawyers Association; Brandon Burkhardt; Julie Campbell)

BACKGROUND: Some have noted that law enforcement often relies on a breathalyzer exam at the scene of motor vehicle accidents to confirm whether a driver was under the influence of drugs or alcohol. It has been suggested that a blood sample would be more effective at detecting such substances that affect a person's cognitive ability and should be required to be taken on arrest for certain intoxication offenses involving the operation of a motor vehicle or watercraft.

DIGEST: CSHB 558 would require a peace officer to require the taking of a blood specimen of a person if:

- the officer arrested the person for an intoxication offense involving the operation of a motor vehicle or watercraft;
- the person refused the officer's request to submit to taking the specimen voluntarily;
- the person was the operator of a motor vehicle or a watercraft involved in an accident that the officer reasonably believed occurred as a result of the intoxication offense; and

- at the time of the arrest, the officer reasonably believed that as a direct result of the accident any individual had died, would die, or had suffered serious bodily injury.

A peace officer could not require the taking of a specimen unless the officer obtained a warrant directing that the specimen be taken or had probable cause to believe that exigent circumstances existed.

The bill would take effect September 1, 2021, and would apply only to an arrest that occurred on or after that date.