

BILL ANALYSIS

Senate Research Center

H.B. 2978
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Engrossed

DIGEST

Current estimates indicate that between 650,000 and 900,000 Americans have contracted some form of acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV) infection. The incidence of HIV infection is much greater among persons convicted of prostitution. While it is difficult to estimate the number of prostitutes infected with HIV, a study funded by the Centers for Disease Control, in 1990, found that one-third of the prostitutes in New York City were HIV positive. Rates as high as 50 percent have been reported by researchers for male prostitutes in the United States. H.B. 2978 requires individuals convicted of or those who receive deferred adjudication for prostitution to undergo testing for sexually transmitted diseases, AIDS, and HIV. This bill also increases the penalty if the person knew that he or she had acquired AIDS or HIV. Furthermore, this bill requires the person to pay for the testing up to \$100.

PURPOSE

As proposed, H.B. 2978 requires an individual convicted of or receiving deferred adjudication for the offense of prostitution to undergo certain medical tests, and creates an offense for engaging in prostitution while knowingly infected with certain diseases.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 43.02, Penal Code, to provide that it is a felony of the third degree to knowingly commit the offense of prostitution if the person knows that he or she has acquired immune deficiency syndrome(AIDS) or human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Chapter 42, Code of Criminal Procedure, by adding Article 42.038, as follows:

Art. 42.038. AIDS TESTING. (a) Requires a defendant who is convicted of or receives deferred adjudication for an offense under Section 43.02 (Prostitution), Penal Code, at the direction of the court, to undergo a medical procedure or test designed to show or help show whether the defendant has a sexually transmitted disease (STD) or has AIDS, HIV, antibodies to HIV, or infection with any other probable causative agent of AIDS. Requires the court to require the defendant to submit to the testing if the defendant refuses to submit voluntarily. Requires the person performing the test to make the test results available to the local health authority. Requires the local health authority to make the notification of the results to the defendant. Authorizes the state to use the fact that a medical procedure or test was performed on the defendant under this subsection or use the results of the procedure or test in any subsequent prosecution of the defendant for an offense under Section 43.02, Penal Code.

(b) Requires testing under this section to be conducted in accordance with written infectious disease control protocols adopted by the Texas Board of Health that clearly establish procedural guidelines that provide criteria for testing and that respect the rights of the defendant and the victims of the alleged offense.

(c) Provides that this article does not permit a court to release a test result to anyone other than a person to whom the court is specifically authorized by this article to release the result.

SECTION 3. Amends Chapter 102A, Code of Criminal Procedure, as follows:

Art. 102.020. AIDS TESTS. Requires a defendant convicted of an offense under Section 43.02, Penal Code, to pay the cost of the medical procedure or test performed on the defendant under Article 42.038, not to exceed \$100. Provides that a person is convicted, for purposes of this article, if a sentence is imposed or the defendant receives community supervision or deferred adjudication.

SECTION 4. Amends Section 81.102(a), Health and Safety Code, to authorize a person to require another person to undergo a medical procedure or test designed to determine or help determine if the person has certain AIDS related diseases or symptoms if the procedure or test is required under Article 42.038, Code of Criminal Procedure.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 1999.

SECTION 7. Emergency clause.