

BILL ANALYSIS

Senate Research Center
80R3553 KCR-D

S.B. 453
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is an extremely high rate of HIV/AIDS in state prisons, nearly five times higher for incarcerated populations than for the general United States population. Individuals who are aware of their status are less likely to engage in risky behavior or spread the infection. Additionally, prisoners who remain ignorant of their HIV status cannot be properly treated and counseled, causing the disease to worsen and allowing them to continue to infect others, increasing the cost of state medical care and the threat to public health.

Current law requires the Texas Department of Criminal Justice (TDCJ), in addition to requiring all inmates to submit to mandatory HIV testing prior to release from a state correctional facility, to provide volunteer, or "opt-out," HIV screening for the inmates during the diagnostic process upon entry into the prison system. An estimated 80 percent of inmates are tested in this manner.

Mandatory HIV testing upon entry is an important step in halting the spread of HIV/AIDS and protecting the public health of Texans. HIV testing of inmates upon entry will give the opportunity for earlier partner notification and enable infected inmates to receive proper treatment and counseling.

As proposed, S.B. 453 requires inmates entering a TDCJ correctional facility to be given an HIV test during the diagnostic process.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 501.054, Government Code, by amending Subsections (g) and (i) and adding Subsection (j), as follows:

(g) Requires the Texas Department of Criminal Justice (TDCJ) to maintain the confidentiality of an inmate's test results indicating HIV at all times, including after the inmate's discharge, release from a state jail, or release on parole or mandatory supervision. Makes conforming changes.

(i) Authorizes TDCJ, rather than the institutional division, to test an inmate confined in a facility operated by the correctional institutions division for HIV and additionally requires TDCJ, during the diagnostic process, to test an inmate for whom TDCJ does not have a record of a positive test result. Makes conforming changes.

(j) Authorizes TDCJ, rather than the institutional division, to segregate the inmate from other inmates if it determines that the inmate has a positive test result. Makes conforming changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2007.