

BILL ANALYSIS

Senate Research Center
81R11186 JSC-F

S.B. 1287
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 81.046 (Confidentiality), Health and Safety Code, is the confidentiality provision for communicable diseases in general. One of the listed exceptions to confidentiality allows release to "county and district courts to comply with this chapter and related rules relating to the control and treatment of communicable diseases and health conditions." This exception covers both the civil process of seeking court-ordered management following violation of a control order and a criminal process based on that violation, both under Chapter 81 (Communicable Diseases), Health and Safety Code.

However, Section 81.103 (Confidentiality; Criminal Penalty), Health and Safety Code, regarding confidentiality of HIV test results, does not contain an equivalent provision to Section 81.046. This may result in local city or county attorneys being unwilling to seek court-ordered management and/or criminal prosecution following violation of a control order regarding HIV, because both types of proceedings would likely require the attorney to divulge confidential information regarding the HIV test result to a judge.

As proposed, S.B. 1287 authorizes a test result to be released to certain entities, including the Centers for Disease Control and Prevention of the United States Public Health Service and a county or district court to comply with Chapter 81, Health and Safety Code, or rules relating to the control and treatment of communicable diseases and health conditions. This bill also authorizes a judge of a county or district court to issue a protective order or take other action to limit disclosure of a test result before that information is entered into evidence or otherwise released in a court proceeding

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 81.103, Health and Safety Code, by amending Subsections (b) and (e) and adding Subsection (k), as follows:

(b) Authorizes a test result to be released to certain entities, including the Centers for Disease Control and Prevention of the United States Public Health Service if reporting is required by federal law or regulation, and a county or district court to comply with this chapter or rules relating to the control and treatment of communicable diseases and health conditions. Makes a nonsubstantive change.

(e) Authorizes a person to release or disclose a test result for statistical summary purposes without the written consent, rather than only without the written consent, of the person tested if information that could identify the person is removed from the report.

(k) Authorizes a judge of a county or district court to issue a protective order or take other action to limit disclosure of a test result obtained under this section before that information is entered into evidence or otherwise released in a court proceeding.

SECTION 2. Effective date: upon passage or September 1, 2009.