

## **BILL ANALYSIS**

Senate Research Center  
83R3413 AED-F

H.B. 1690  
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Health & Human Services  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Although current law authorizes public health officials to prevent, control, and treat communicable diseases, recent cases in certain areas of the state have highlighted gaps in the communicable disease control laws that impede the efforts of officials to protect the public from disease. These gaps include limited authority of law enforcement to apprehend a person who is under a protective custody order, lack of authority to deploy emergency medical services personnel when medically indicated, limitations on a health authority to prevent exposure to tuberculosis when such a case requires isolation or quarantine measures, and insufficient penalties for noncompliance with protective custody orders by an individual. H.B. 1690 seeks to expand law enforcement authority for communicable disease control purposes, limit exposure to communicable diseases during court proceedings, and establish criminal penalties for noncompliance with certain protective custody orders.

H.B. 1690 amends current law relating to measures to prevent or control the entry into or spread in this state of certain communicable diseases and provides a penalty.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

### **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 81.003, Health and Safety Code, by adding Subdivision (4-a), to define "peace officer."

SECTION 2. Amends Section 81.083, Health and Safety Code, by adding Subsection (m), to authorize a peace officer, including a sheriff or constable, to use reasonable force to secure the members of a group subject to an order issued under Subsection (k) (relating to authorizing the Texas Department of Health (TDH) or a health authority to order the members of a group of five or more individuals to implement control measures that are reasonable and necessary to prevent the introduction, transmission, and spread of a communicable disease in this state if certain conditions are met) and except as directed by TDH or health authority, prevent the members from leaving the group or other individuals from joining the group.

SECTION 3. Amends Section 81.084, Health and Safety Code, by adding Subsection (1), to authorize a peace officer, including a sheriff or constable, to use reasonable force to secure a property subject to a court order issued under this section and except as directed by TDH or health authority, prevent an individual from entering or leaving the property subject to the order.

SECTION 4. Amends Section 81.085, Health and Safety Code, by adding Subsection (j), to authorize a peace officer, including a sheriff or constable, to use reasonable force to secure a quarantine area and except as directed by TDH or health authority, prevent an individual from entering or leaving the quarantine area.

SECTION 5. Amends Section 81.162, Health and Safety Code, by adding Subsection (h), to authorize the judge or magistrate to direct a peace officer, including a sheriff or constable, to prevent a person who is the subject of a protective custody order from leaving the facility designated to detain the person if the court finds that a threat to the public health exists because the person may attempt to leave the facility.

SECTION 6. Amends Section 81.163, Health and Safety Code, by amending Subsection (a) and adding Subsection (f), as follows:

(a) Requires that a protective custody order direct a peace officer, including a sheriff or constable, to take the person who is the subject of the order into protective custody and transport the person immediately to an appropriate inpatient health facility that has been designated by the commissioner of public health as a suitable place.

(f) Authorizes a protective custody order issued under Section 81.162 to direct an emergency medical services provider to provide an ambulance and staff to immediately transport the person who is the subject of the order to an appropriate inpatient health facility designated by the order or other suitable facility. Authorizes the provider to seek reimbursement for the costs of the transport from any appropriate source.

SECTION 7. Amends Section 81.185, Health and Safety Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Requires that the order for temporary detention direct a peace officer, including a sheriff or constable, to take the person into custody and immediately transport the person to an appropriate inpatient health care facility.

(e) Authorizes that the order for temporary detention direct an emergency medical services provider to provide an ambulance and staff to immediately transport the person who is the subject of the order to an appropriate inpatient health care facility designated by the order or other suitable facility. Authorizes the provider to seek reimbursement for the costs of the transport from any appropriate source.

SECTION 8. Amends Section 81.190, Health and Safety Code, by adding Subsection (g), to authorize a judge to order that a person entitled to a hearing is prohibited from appearing in person and is authorized to appear only by teleconference or another means that the judge finds appropriate to allow the person to speak, to interact with witnesses, and to confer with the person's attorney if TDH or health authority advises the court that the person is required to remain in isolation or quarantine and that exposure to the judge or the public would jeopardize the health and safety of those persons and the public health.

SECTION 9. Amends Subchapter G, Chapter 81, Health and Safety Code, by adding Section 81.212, as follows:

Sec. 81.212. EVADING OR RESISTING APPREHENSION OR TRANSPORT; CRIMINAL PENALTY. (a) Provides that a person who is subject to a protective custody order or temporary detention order issued by a court under this subchapter commits an offense if the person resists or evades apprehension by a sheriff, constable, or other peace officer enforcing the order or resists or evades transport to an appropriate inpatient health care facility or other suitable facility under the order.

(b) Provides that a person commits an offense if the person assists a person who is subject to a protective custody order or temporary detention order issued by a court under this subchapter in resisting or evading apprehension by a sheriff, constable, or other peace officer enforcing the order or in resisting or evading transport to an appropriate inpatient health care facility or other suitable facility under the order.

(c) Provides that an offense under this section is a Class A misdemeanor.

SECTION 10. Makes application of this Act prospective.

SECTION 11. Effective date: upon passage or September 1, 2013.