

## **BILL ANALYSIS**

Senate Research Center  
84R6384 JSC-D

S.B. 779  
By: Huffman  
State Affairs  
3/5/2015  
As Filed

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

S.B. 779 establishes that medical test results and medical records remain confidential, subject to grand jury subpoena.

Texas courts have been set back in furthering the potential sentencing of a defendant because of lack of access to the defendant's confidential medical records.

A Houston sex offender is now facing charges of raping a 14-year-old girl and a 23-month-old toddler, both of whom now have HIV, among other diseases harbored by this offender. Prosecutors are unable to access the defendant's medical records and unable to prove in court that the defendant is HIV positive and knowingly transmitted the disease to the victims in the commission of the offenses.

Sexual assault victims who contract a sexually transmitted disease from a defendant harboring the disease, most notably HIV, have been unable to prove this in court because the Health Insurance Portability and Accountability Act (HIPAA) prevents the court from accessing the defendant's medical records or test results. Texas courts need the authority to subpoena such records to effectively and appropriately prosecute defendants in certain sexual assault cases.

As proposed, S.B. 779 amends current law relating to the access to certain medical test results by a grand jury.

### **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(a), Health and Safety Code, to provide that a test result is confidential and is not subject to a subpoena, other than a grand jury subpoena.

SECTION 2. Effective date: upon passage or September 1, 2015.