

HEALTH & SAFETY CODE

CHAPTER 89. SCREENING AND TREATMENT FOR TUBERCULOSIS IN JAILS AND
OTHER CORRECTIONAL FACILITIES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 89.001. DEFINITIONS. In this chapter:

(1) "Community corrections facility" means a facility established under Chapter 509, Government Code.

(2) "County jail" means a facility operated by or for a county for the confinement of persons accused or convicted of an offense and includes:

(A) a facility operated by or for a county for the confinement of persons accused or convicted of an offense;

(B) a county jail or a correctional facility authorized by Subchapter F, Chapter 351, Local Government Code; and

(C) a county correctional center authorized by Subchapter H, Chapter 351, Local Government Code.

(3) "Governing body" means:

(A) the commissioners court of a county, for a county jail;

(B) the district judges governing a community corrections facility, for a community corrections facility;

(C) the governing body of a municipality, for a jail operated by or under contract to a municipality; or

(D) the community supervision and corrections department, for a jail operated under contract to a community supervision and corrections department.

(4) "Health authority" has the meaning assigned by Section 121.021.

(5) "Jail" means:

(A) a county jail; or

(B) a facility for the confinement of persons accused of an offense that is:

(i) operated by a municipality or a vendor under contract with a municipality under Subchapter E, Chapter 351, Local Government Code; or

(ii) operated by a vendor under contract with a community supervision and corrections department under Chapter 76, Government Code.

(6) "Local health department" means a health department created under Subchapter D, Chapter 121.

(7) "Physician" means a person licensed to practice medicine in a state of the United States.

(8) "Public health district" means a health district established under Subchapter E, Chapter 121.

(9) "Screening test" means a rapid analytical laboratory or other procedure to determine the need for further diagnostic evaluation.

(10) "Tuberculosis" means a disease caused by *Mycobacterium tuberculosis* or other members of the *Mycobacterium tuberculosis* complex.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 7.07, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 348, Sec. 1, eff. Sept. 1, 1997.

Sec. 89.002. SCOPE OF CHAPTER. Except as provided by Subchapter E, this chapter applies only to a jail that:

(1) has a capacity of at least 100 beds; or

(2) houses inmates:

(A) transferred from a county that has a jail that has a capacity of at least 100 beds; or

(B) from another state.

Added by Acts 1997, 75th Leg., ch. 348, Sec. 2, eff. Sept. 1, 1997.

SUBCHAPTER B. SCREENING OF JAIL EMPLOYEES AND VOLUNTEERS

Sec. 89.011. SCREENING OF JAIL EMPLOYEES AND VOLUNTEERS. (a) The governing body of a jail or community corrections facility, through the community supervision and corrections department, shall require that each employee or volunteer working or providing services in a jail or a community corrections facility, who meets the screening guidelines prescribed by board rule, present to the governing body a certificate signed by a physician that states that:

(1) the employee or volunteer has been tested for tuberculosis infection in accordance with board rules; and

(2) the results of the test indicate that the person does not have tuberculosis.

(b) In lieu of a screening test, an employee or volunteer with a history of a positive screening test may provide:

(1) documentation of that positive test result and of any diagnostic and therapeutic follow-up; and

(2) a certificate signed by a physician that states that the person does not have tuberculosis.

(c) The health authority may require an employee or volunteer to have an additional screening test or medical examination if the department determines that an additional test or examination is necessary and appropriate to protect the public health.

(d) An employee or volunteer is exempt from the screening test required by this section if:

(1) the screening test conflicts with the tenets of an organized religion to which the individual belongs; or

(2) the screening test is medically contraindicated based on an examination by a physician.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 3, eff. Sept. 1, 1997.

Sec. 89.012. FOLLOW-UP EVALUATIONS AND TREATMENT. (a) An employee or a volunteer with a positive screening test result must obtain a diagnostic evaluation from the person's own physician to determine if the person has tuberculosis.

(b) If the employee or volunteer has tuberculosis, the governing body may not permit the person to begin or continue the person's employment duties or volunteer services unless the person is under treatment for the disease by a physician and the person provides to the governing body a certificate signed by the attending physician stating that the patient is noninfectious.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 4, eff. Sept. 1, 1997.

Sec. 89.013. CERTIFICATE REQUIRED. (a) The governing body or a designee of the governing body shall confirm that each employee or volunteer required to be screened under this subchapter has the required certificate.

(b) The governing body may not permit an employee or volunteer to carry out the person's duties if the person does not have the required certificate.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 5, eff. Sept. 1, 1997.

Sec. 89.014. COST OF TESTS, FOLLOW-UP, AND TREATMENT. The employee or volunteer shall pay the expense of a screening test, diagnostic evaluation, or other professional medical service required under this subchapter unless the commissioners court, the governing body of a municipality, or a local health department or public health district elects to provide the service.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 5, eff. Sept. 1, 1997.

SUBCHAPTER C. INMATE SCREENING AND TREATMENT

Sec. 89.051. INMATE SCREENING REQUIRED. (a) Each inmate in a jail or community corrections facility shall undergo a screening test for tuberculosis infection approved by the board if:

(1) the inmate will probably be confined in jail or a community corrections facility for more than seven days; and

(2) the inmate meets the screening guidelines prescribed by board rules.

(b) The inmate must be tested on or before the seventh day after the day the inmate is first confined.

(c) An inmate listed by Subsection (a) is not required to be retested at each rebooking if the inmate is booked into a jail or a community corrections facility more than once during a 12-month period unless the inmate shows symptoms of tuberculosis or is known to have been exposed to tuberculosis.

(d) An inmate is exempt from the screening test required by this section if:

(1) the screening test conflicts with the tenets of an organized religion to which the individual belongs; or

(2) the screening test is medically contraindicated based on an examination by a physician.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 6, eff. Sept. 1,

1997.

Sec. 89.052. RESCREENING; DIAGNOSTIC EVALUATIONS. The department or a health authority may require a governing body to provide an additional screening test or a diagnostic evaluation if the department or health authority determines that an additional screening test or a diagnostic evaluation is necessary and appropriate to protect the health of the jail inmates, employees, volunteers, or the public.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 7, eff. Sept. 1, 1997.

Sec. 89.053. FOLLOW-UP EVALUATIONS. (a) If an inmate has a confirmed positive screening test result, the governing body shall provide a diagnostic evaluation to determine whether the inmate has tuberculosis.

(b) The sheriff, jail administrator, or director of the community corrections facility shall provide appropriate accommodations to an inmate who has tuberculosis or is suspected of having tuberculosis, including respiratory isolation, if necessary, and adequate medical care and treatment that meet the accepted standards of medical practice.

(c) The jail or community corrections facility shall provide preventive therapy to an infected inmate if the preventive therapy is prescribed by the attending physician and the inmate consents to the treatment.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 8, eff. Sept. 1, 1997.

Sec. 89.054. INMATE TRANSFER AND RELEASE. A copy of an inmate's medical records or documentation of screenings or treatment received during confinement must accompany an inmate transferred from one jail or community corrections facility to another or the Texas Department of Criminal Justice and be available for medical review on arrival of the inmate.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. REPORTING; RULEMAKING; MINIMUM STANDARDS

Sec. 89.071. REPORTING. (a) A case of tuberculosis shall be reported to the appropriate health authority or to the department not later than the third day after the day on which the diagnosis is suspected.

(b) The results of a screening test shall be reported to the department monthly in a manner approved by the department.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 1, eff. Sept. 1, 1993.

Sec. 89.072. RULEMAKING. The department shall recommend to the Commission on Jail Standards and the Texas Department of Criminal Justice rules to carry out this chapter, including rules describing:

(1) the types of screening tests and diagnostic evaluations and the scope of the professional examinations that may be used to meet the requirements of this chapter;

(2) the categories of employees, volunteers, or inmates who must have a screening test under this chapter;

(3) the form and content of the certificate required under Subchapter B for employees and volunteers;

(4) the deadlines for filing a certificate;

(5) the transfer of employee or volunteer certificates and inmate records between facilities;

(6) the frequency of screening tests for employees, volunteers, and inmates;

(7) the criteria for requiring an additional screening test or a diagnostic evaluation or examination; and

(8) the reporting of a screening test or an evaluation or examination result to the appropriate health authority or to the department.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 9, eff. Sept. 1, 1997.

Sec. 89.073. ADOPTION OF LOCAL STANDARDS. (a) The standards prescribed by this chapter and the rules adopted by the board relating to screening tests or examinations for tuberculosis required for certain employees and volunteers are minimum standards.

(b) With the prior approval of the department:

(1) a governing body may adopt and enforce standards for carrying out this chapter if the standards are compatible with

and equal to or more stringent than the standards prescribed by this chapter and the board's rules; and

(2) a private facility may adopt and enforce standards for carrying out this chapter if the standards are compatible with and equal to or more stringent than the standards prescribed by this chapter and the board's rules.

(c) The board shall adopt substantive and procedural rules to govern the submission of standards adopted under Subsection (b). At a minimum these rules must contain:

(1) a procedure for the submission of standards for departmental review; and

(2) an internal departmental appeal process by which a governing body or private entity may seek a review of the department's decision to reject proposed standards.

Added by Acts 1993, 73rd Leg., ch. 786, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 348, Sec. 10, eff. Sept. 1, 1997.

SUBCHAPTER E. CONTINUITY OF CARE

Sec. 89.101. DEFINITIONS. In this subchapter:

(1) "Corrections facility" means:

(A) a jail or community corrections facility, without regard to whether the jail or facility satisfies the requirements of Section 89.002;

(B) any correctional facility operated by or under contract with a division of the Texas Department of Criminal Justice; or

(C) a detention facility operated by the Texas Youth Commission.

(2) "Offender" means a juvenile or adult who is arrested or charged with a criminal offense.

Added by Acts 1997, 75th Leg., ch. 348, Sec. 11, eff. Sept. 1, 1997.

Sec. 89.102. REPORT OF RELEASE. A corrections facility shall report to the department the release of an offender who is receiving treatment for tuberculosis. The department shall arrange for continuity of care for the offender.

Added by Acts 1997, 75th Leg., ch. 348, Sec. 11, eff. Sept. 1, 1997.