

CHAPTER 786

S.B. No. 57

AN ACT

relating to the screening and treatment for tuberculosis of employees, volunteers, and inmates in county jails and other correctional facilities.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subtitle D, Title 2, Health and Safety Code, is amended by adding Chapter 89 to read as follows:

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 Article 42.13, Code of Criminal Procedure.

(2) "County jail" means a facility operated by or for a county for the confinement of persons accused or convicted of an offense and that has a capacity of 100 beds or more 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 corrections center authorized by Subchapter H, Chapter 351, Local Government Code.

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

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

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

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

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

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

[Sections 89.002 to 89.010 reserved for expansion]

SUBCHAPTER B. SCREENING OF JAIL EMPLOYEES AND VOLUNTEERS

Sec. 89.011. SCREENING OF JAIL EMPLOYEES AND VOLUNTEERS. (a) The commissioners court of each county and the district judges governing a community corrections facility, through the community supervision and corrections department, shall require that each employee or volunteer working or providing services in a county jail or a community corrections facility, who meets the screening guidelines prescribed by board rule, present to the court or judicial district 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.

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 commissioners court or the judicial district, as appropriate, 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 court or judicial district a certificate signed by the attending physician stating that the patient is noninfectious.

Sec. 89.013. CERTIFICATE REQUIRED. (a) The commissioners court, judicial district, or a designee of either shall confirm that each employee or volunteer required to be screened under this subchapter has the required certificate.

(b) *The commissioners court or judicial district may not permit an employee or volunteer to carry out the person's duties if the person does not have the required certificate.*

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 or a local health department or public health district elects to provide the service.*

[Sections 89.015 to 89.050 reserved for expansion]

SUBCHAPTER C. INMATE SCREENING AND TREATMENT

Sec. 89.051. **INMATE SCREENING REQUIRED.** (a) *Each inmate in a county 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 14 days; and*

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

(b) *The inmate must be tested on or before the 14th 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.*

Sec. 89.052. **RESCREENING; DIAGNOSTIC EVALUATIONS.** *The department or a health authority may require the commissioners court or the judicial district to provide an additional screening test or a diagnostic evaluation if the 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.*

Sec. 89.053. **FOLLOW-UP EVALUATIONS.** (a) *If an inmate has a confirmed positive screening test result, the commissioners court or judicial district 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 county 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.*

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.*

[Sections 89.055 to 89.070 reserved for expansion]

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.

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 county or judicial district 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.

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 commissioners court or a judicial district 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 county, judicial district, or private jail standards. 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 county, judicial district, or private entity may seek a review of the department's decision to reject the entity's proposed standards.

SECTION 2. Subchapter B, Chapter 501, Government Code, is amended by adding Section 501.059 to read as follows:

Sec. 501.059. TUBERCULOSIS SCREENING. The board will establish requirements for tuberculosis screening of department employees and volunteers in a manner similar to that established for jail employees and volunteers as outlined in Subchapter B, Chapter 89, Health and Safety Code.

SECTION 3. (a) The Texas Department of Health shall supply the materials, drugs, and laboratory services to jails and community corrections facilities that are necessary to accomplish the screening required by this Act. The department is not required to supply a private jail, but a private jail may receive reimbursement under its contract with a county.

(b) The Texas Department of Criminal Justice shall provide funds for administering screenings, evaluating inmates, and administering drugs to inmates suspected of having an active case of tuberculosis, for inmates whose paperwork and processing required under Subsection (a), Section 8, Article 42.09, Code of Criminal Procedure, has been completed, and inmates in a community corrections facility. The department shall reimburse a county or judicial district in the same manner as provided for reimbursements under Section 499.123, Government Code.

(c) A county or judicial district shall provide funds for administering screenings, evaluating inmates, and administering drugs to inmates suspected of having an active case of tuberculosis, for inmates who are pretrial, inmates whose paperwork and processing under Subsection (a), Section 8, Article 42.09, Code of Criminal Procedure, is completed, or inmates who are not to be transferred to a Texas Department of Criminal Justice facility.

(d) It is the intent of the legislature that the county provide not more than 33 percent of the cost of the program required under this Act. The Texas Department of Health is authorized to provide grants to counties for this program.

(e) If the Texas Department of Health and the Texas Department of Criminal Justice fail to provide 67 percent of the costs of the program assistance to a county as prescribed under this Act, the county is not required to continue the tuberculosis testing and screening programs mandated under Chapter 89, Health and Safety Code.

SECTION 4. (a) Except as provided by Subsection (b), this Act takes effect September 1, 1993.

(b) Each county commissioners court and governing body of a judicial district shall begin the screening activities prescribed by Chapter 89, Health and Safety Code, as added by this Act, not later than March 15, 1994.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 7, 1993, by a viva-voce vote; the Senate concurred in House amendments on May 28, 1993, by a viva-voce vote; passed the House, with amendments, on May 26, 1993, by a non-record vote.

Approved June 18, 1993.

Effective Sept. 1, 1993.