

BILL ANALYSIS

C.S.H.B. 324
By: Dutton
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Fourth Amendment to the United States Constitution establishes the right to be free from unreasonable searches and seizures. A law enforcement officer is generally prohibited from conducting a search without a search warrant, with certain exceptions. Recent incidents in Texas in which law enforcement officers, pursuant to those exceptions, conducted body cavity searches of individuals during traffic stops without a warrant have prompted concerns regarding the lack of policies among law enforcement agencies prohibiting such warrantless searches. C.S.H.B. 324 seeks to align certain law enforcement policy with the constitutionally given protection against unreasonable searches.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 324 amends the Code of Criminal Procedure to prohibit a peace officer from conducting a body cavity search, defined in the bill as an inspection that is conducted of a person's anal or vaginal cavity in any manner, of a person during a traffic stop unless the officer first obtains a search warrant authorizing the body cavity search.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 324 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.24 to read as follows:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.24 to read as follows:

84R 19145

15.85.422

Substitute Document Number: 84R 13370

Art. 18.24. BODY CAVITY SEARCH.

(a) In this article, "body cavity search" means an inspection that is conducted of a person's anal or vaginal cavity in any manner.

(b) Notwithstanding any other law, a peace officer may not conduct a body cavity search of a person arrested or detained during the investigation of a criminal offense unless a magistrate has issued a search warrant pursuant to this chapter authorizing the body cavity search.

SECTION 2. This Act takes effect November 1, 2015.

Art. 18.24. BODY CAVITY SEARCH DURING TRAFFIC STOP.

(a) In this article, "body cavity search" means an inspection that is conducted of a person's anal or vaginal cavity in any manner.

(b) Notwithstanding any other law, a peace officer may not conduct a body cavity search of a person during a traffic stop unless the officer first obtains a search warrant pursuant to this chapter authorizing the body cavity search.

SECTION 2. This Act takes effect September 1, 2015.