

By: Burrows, Simpson

H.B. No. 4071

Substitute the following for H.B. No. 4071:

By: Herrero

C.S.H.B. No. 4071

A BILL TO BE ENTITLED

AN ACT

relating to certain body cavity searches conducted by a peace officer.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as The Angel Law.

SECTION 2. Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.24 to read as follows:

Art. 18.24. BODY CAVITY SEARCH DURING INVESTIGATIVE DETENTION. (a) In this article, "body cavity search" means an inspection that is conducted of a person's anal or vaginal cavity in any manner, including by visual inspection, digital probing, x-ray, enema, or colonoscopy.

(b) Notwithstanding any other law and except as otherwise provided by this article, a peace officer may not conduct a body cavity search of a person during a period in which the officer is detaining the person unless the officer first obtains a search warrant pursuant to this chapter authorizing the body cavity search.

(c) A body cavity search described by Subsection (b) must be conducted:

(1) in a private, sanitary place; and

(2) in accordance with medically recognized, hygienic practices.

(d) A peace officer who obtains protected health

1 information in the course of conducting a body cavity search under  
2 this article is subject to the same confidentiality requirements  
3 and penalties as a covered entity under Chapter 181, Health and  
4 Safety Code. For purposes of this subsection, "protected health  
5 information" has the meaning assigned by the Health Insurance  
6 Portability and Accountability Act and Privacy Standards, as that  
7 term is defined by Section 181.001, Health and Safety Code.

8 (e) A law enforcement agency that employs a peace officer  
9 who conducts a body cavity search described by Subsection (b) is  
10 liable for any medical expenses incident to the search.

11 (f) Evidence of compliance with Subsection (b) is a  
12 condition precedent to the admissibility of evidence obtained by a  
13 peace officer conducting a body cavity search of a person during a  
14 traffic stop.

15 (g) This article does not apply to a body cavity search:

16 (1) conducted pursuant to an investigation of border  
17 crime, as that term is defined by Section 772.0071, Government  
18 Code; or

19 (2) conducted on a person after the person is  
20 arrested, including any time during which the person is confined  
21 awaiting trial or after conviction of a criminal offense.

22 SECTION 3. This Act takes effect September 1, 2015.