

By: Toth

H.B. No. 3212

A BILL TO BE ENTITLED

AN ACT

relating to the duties of a birthing facility conducting newborn screening tests; creating an administrative and civil penalty.

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

SECTION 1. This Act may be cited as Mallori's Act.

SECTION 2. Subchapter B, Chapter 33, Health and Safety Code, is amended by adding Section 33.0113 to read as follows:

Sec. 33.0113. REQUIRED DISCLOSURE BEFORE DISCHARGE OF NEWBORN. (a) Before a birthing facility discharges a newborn subjected to screening tests under Section 33.011 from the facility, the facility shall inform the parent, managing conservator, or guardian of the newborn of any risks associated with discharging the newborn before the analysis of the screening test specimen is complete.

(b) The department shall develop a standard informational form for use under this section.

SECTION 3. Subchapter B, Chapter 33, Health and Safety Code, is amended by adding Section 33.020 to read as follows:

Sec. 33.020. VIOLATION; ADMINISTRATIVE AND CIVIL PENALTY.

(a) A birthing facility shall complete the test required under Section 33.011 and deliver the test results to the parent, managing conservator, or guardian within 24 hours.

(b) The commission may impose an administrative penalty against a birthing facility that violates Subsection (a) in an

1 amount determined by the commission in accordance with commission  
2 rules.

3 (c) If a violation under Subsection (a) results in serious  
4 bodily injury or death of the newborn, the violation is punishable  
5 by a civil penalty of not less than \$500,000.

6 (d) The attorney general or a district attorney may bring an  
7 action to recover a civil penalty imposed under Subsection (c). The  
8 attorney general or a district attorney may recover reasonable  
9 attorney's fees and litigation costs incurred in bringing the  
10 action.

11 SECTION 4. Section 33.0113, Health and Safety Code, as  
12 added by this Act, applies only to an infant who is discharged from  
13 a birthing facility on or after the effective date of this Act.

14 SECTION 5. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2023.