

1-1 By: Crownover, et al. (Senate Sponsor - Nelson) H.B. No. 790
1-2 (In the Senate - Received from the House May 6, 2005;
1-3 May 12, 2005, read first time and referred to Committee on Health
1-4 and Human Services; May 19, 2005, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 8,
1-6 Nays 0; May 19, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 790 By: Nelson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the conduct of newborn screening by the Department of
1-11 State Health Services.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. The heading to Chapter 33, Health and Safety
1-14 Code, is amended to read as follows:

1-15 CHAPTER 33. PHENYLKETONURIA, OTHER HERITABLE DISEASES, [~~AND~~]
1-16 HYPOTHYROIDISM, AND CERTAIN OTHER DISORDERS

1-17 SECTION 2. Subchapter A, Chapter 33, Health and Safety
1-18 Code, is amended by adding Section 33.004 to read as follows:

1-19 Sec. 33.004. STUDY ON NEWBORN SCREENING METHODOLOGY AND
1-20 EQUIPMENT. (a) Not later than March 1, 2006, the department shall:

1-21 (1) conduct a study to determine the most
1-22 cost-effective method of conducting newborn screening, including
1-23 screening for disorders listed in the core uniform panel of newborn
1-24 screening conditions recommended in the 2005 report by the American
1-25 College of Medical Genetics entitled "Newborn Screening: Toward a
1-26 Uniform Screening Panel and System" or another report determined by
1-27 the department to provide more appropriate newborn screening
1-28 guidelines, to protect the health and welfare of this state's
1-29 newborns and to maximize the number of newborn screenings that may
1-30 be conducted with the funding available for the screening;

1-31 (2) determine the disorders to be studied under
1-32 Subdivision (1) and ensure the study does not examine screening and
1-33 services provided under Chapter 47; and

1-34 (3) obtain proposals or information regarding the
1-35 conduct of newborn screening and compare the costs of the
1-36 department performing newborn screening services to the costs of
1-37 outsourcing screening to a qualified laboratory with at least two
1-38 years' experience performing newborn screening tests.

1-39 (a-1) Not later than October 1, 2005, the department shall
1-40 review and study the National Newborn Screening and Genetics
1-41 Resources Center's assessment of the screening program in this
1-42 state. Based on the findings and recommendations in the assessment,
1-43 the executive commissioner of the Health and Human Services
1-44 Commission may adopt rules for the department to implement a
1-45 newborn screening program. In adopting rules for the newborn
1-46 screening program, the department and the executive commissioner:

1-47 (1) may seek input during the rulemaking process from
1-48 individuals and groups with an interest or expertise in newborn
1-49 screening;

1-50 (2) may use informal conferences or consultations to
1-51 obtain opinions on the program as provided by Section 2001.031,
1-52 Government Code; and

1-53 (3) must provide an opportunity for the individuals
1-54 and groups described by Subdivision (1) to appear before the
1-55 department before a notice of proposed rules is given as required by
1-56 Section 2001.023, Government Code.

1-57 (a-2) This subsection and Subsection (a-1) expire January
1-58 1, 2007.

1-59 (b) In accordance with rules adopted by the executive
1-60 commissioner of the Health and Human Services Commission, the
1-61 department may implement a newborn screening program.

1-62 (b-1) Not later than March 1, 2006, the department shall
1-63 file with the governor's office a written report of the results and

2-1 conclusions of the study conducted by the department under
 2-2 Subsection (a). This subsection expires January 1, 2007.

2-3 (c) If the department determines under Subsection (a) that
 2-4 the department's performance of newborn screening services is more
 2-5 cost-effective than outsourcing newborn screening, the department
 2-6 shall obtain the use of screening methodologies, including tandem
 2-7 mass spectrometers, and hire the employees necessary to administer
 2-8 newborn screening under this chapter.

2-9 (d) If the department determines under Subsection (a) that
 2-10 outsourcing of newborn screening is more cost-effective, the
 2-11 department shall contract for the resources and services necessary
 2-12 to conduct newborn screening using a competitive procurement
 2-13 process.

2-14 (e) The department shall periodically review the newborn
 2-15 screening program as revised under this section to determine the
 2-16 efficacy and cost-effectiveness of the program and determine
 2-17 whether adjustments to the program are necessary to protect the
 2-18 health and welfare of this state's newborns and to maximize the
 2-19 number of newborn screenings that may be conducted with the funding
 2-20 available for the screening.

2-21 (f) The department may adjust the amounts charged for
 2-22 newborn screening fees, including fees assessed for follow-up
 2-23 services, tracking confirmatory testing, and diagnosis.

2-24 SECTION 3. Section 33.011, Health and Safety Code, is
 2-25 amended by amending Subsection (a) and adding Subsection (a-1) to
 2-26 read as follows:

2-27 (a) The physician attending a newborn child or the person
 2-28 attending the delivery of a newborn child that is not attended by a
 2-29 physician shall subject the child to screening tests approved by
 2-30 the department for phenylketonuria, other heritable diseases,
 2-31 ~~and~~ hypothyroidism, and other disorders for which screening is
 2-32 required by the department.

2-33 (a-1) To the extent funding is available for the screening,
 2-34 the department shall require newborn screening tests to screen for
 2-35 disorders listed in the core uniform panel of newborn screening
 2-36 conditions recommended in the 2005 report by the American College
 2-37 of Medical Genetics entitled "Newborn Screening: Toward a Uniform
 2-38 Screening Panel and System" or another report determined by the
 2-39 department to provide more appropriate newborn screening
 2-40 guidelines to protect the health and welfare of this state's
 2-41 newborns.

2-42 SECTION 4. Section 33.014(a), Health and Safety Code, is
 2-43 amended to read as follows:

2-44 (a) If, because of an analysis of a specimen submitted under
 2-45 Section 33.011, the department reasonably suspects that a newborn
 2-46 child may have phenylketonuria, another heritable disease, ~~or~~
 2-47 hypothyroidism, or another disorder for which the screening tests
 2-48 are required, the department shall notify the person who submits
 2-49 the specimen that the results are abnormal and provide the test
 2-50 results to that person. The department may notify one or more of
 2-51 the following that the results of the analysis are abnormal and
 2-52 recommend ~~that~~ further testing when ~~is~~ necessary:

2-53 (1) the physician attending the newborn child or the
 2-54 physician's designee;

2-55 (2) the person attending the delivery of the newborn
 2-56 child that was not attended by a physician;

2-57 (3) the parents of the newborn child;

2-58 (4) the health authority of the jurisdiction in which
 2-59 the newborn child was born or in which the child resides, if known;
 2-60 or

2-61 (5) physicians who are cooperating pediatric
 2-62 specialists for the program.

2-63 SECTION 5. Section 33.031(a), Health and Safety Code, is
 2-64 amended to read as follows:

2-65 (a) All newborn children and other individuals under 21
 2-66 years of age who have been screened, have been found to be
 2-67 presumptively positive through the newborn screening program for
 2-68 phenylketonuria, other heritable diseases, hypothyroidism, or
 2-69 another disorder for which the screening tests are required, and

3-1 may be financially eligible may be referred to the department's
3-2 services program for children with special health care needs.

3-3 SECTION 6. Section 33.032(a), Health and Safety Code, is
3-4 amended to read as follows:

3-5 (a) Within the limits of funds available for this purpose
3-6 and in cooperation with the individual's physician, the department
3-7 may provide services directly or through approved providers to
3-8 individuals of any age who meet the eligibility criteria specified
3-9 by board rules on the confirmation of a positive test for
3-10 phenylketonuria, other heritable diseases, ~~[or]~~ hypothyroidism, or
3-11 another disorder for which the screening tests are required.

3-12 SECTION 7. Not later than November 1, 2006, the Department
3-13 of State Health Services shall implement the expanded newborn
3-14 screening program using the most cost-effective methods as
3-15 determined by the department under Section 33.004, Health and
3-16 Safety Code, as added by this Act.

3-17 SECTION 8. This Act takes effect September 1, 2005.

3-18

* * * * *