

A BILL TO BE ENTITLED

AN ACT

relating to fetal and infant mortality review; imposing penalties.

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

SECTION 1. Subtitle A, Title 8, Health and Safety Code, is amended by adding Chapter 674 to read as follows:

CHAPTER 674. FETAL AND INFANT MORTALITY REVIEW

Sec. 674.001. DEFINITIONS. In this chapter:

(1) "Decedent" means:

(A) a person for whom a fetal death certificate must be filed; or

(B) a deceased infant.

(2) "Fetal death certificate" means a death certificate filed for any fetus weighing 350 grams or more or, if the weight is unknown, a fetus age 20 weeks or more as calculated from the start date of the last normal menstrual period to the date of delivery.

(3) "Health care provider" means any health care practitioner or facility that provides medical evaluation or treatment, including mental health evaluation or treatment.

(4) "Infant" means a child younger than one year of age.

(5) "Local health authority" means:

(A) a municipal or county health authority;

(B) a director of a local health department or

1 public health district; or

2 (C) a regional director of a public health
3 region.

4 (6) "Review" means a reexamination of information
5 regarding a decedent from relevant agencies, professionals, health
6 care providers, and the family of the decedent.

7 (7) "Review team" means the fetal and infant mortality
8 review team.

9 Sec. 674.002. REVIEW TEAM. (a) A fetal and infant
10 mortality review team may be established only:

11 (1) by a local health authority or other local health
12 official or by the Department of State Health Services; or

13 (2) under a contract or in accordance with a
14 memorandum of agreement with a local health authority or other
15 local health official or the Department of State Health Services.

16 (b) Local health authorities or other local health
17 officials for two or more adjacent counties or municipalities may
18 join to establish a joint review team.

19 (c) A review team must be composed of culturally diverse
20 members representing multiple disciplines, including professionals
21 and representatives of agencies that provide services or community
22 resources for families in the community and community
23 representatives. The review team may include:

24 (1) a physician, including a pediatrician, an
25 obstetrician, or a physician practicing in another relevant
26 specialty;

27 (2) a registered nurse;

1 (3) a county attorney or a designee of a county
2 attorney;

3 (4) a representative of a school district;

4 (5) a representative of the local health department;

5 (6) a forensic pathologist;

6 (7) a mental health professional;

7 (8) a representative from a local hospital;

8 (9) a local registrar of births and deaths;

9 (10) a person working in a supervisory position in
10 local administration of the state Medicaid program;

11 (11) a person working with local implementation of the
12 Special Supplemental Nutrition Program for Women, Infants, and
13 Children;

14 (12) an educator;

15 (13) a pastoral counselor;

16 (14) a member of the health committee of a chamber of
17 commerce; and

18 (15) other community representatives.

19 (d) Members of a review team may select additional members
20 according to the resources of the review team and its needs.

21 (e) The review team shall select a presiding officer from
22 its members.

23 (f) A local health authority or other local health official
24 or the Department of State Health Services is not required to
25 establish a review team for a particular municipality or county.

26 Sec. 674.003. PURPOSE AND POWERS AND DUTIES OF REVIEW TEAM.

27 (a) The purpose of a review team is to:

1 (1) improve the health and well-being of women,
2 infants, and families;

3 (2) reduce racial disparities in the rates of and the
4 overall rates of fetal and infant mortality;

5 (3) facilitate the operations of the review team and
6 train review team members on the review team process; and

7 (4) develop and deliver reports of findings to the
8 community.

9 (b) For a death or fetal death subject to review, the review
10 team shall collect information relating to the death of the
11 decedent, including medical, dental, and mental health care records
12 or information, autopsy reports, social services records, and other
13 pertinent records related to the decedent and the family of the
14 decedent.

15 (c) Before review at a meeting of the review team, the names
16 and addresses of the decedent and the decedent's family and the name
17 and address of each health care provider that provided services to
18 the decedent or decedent's family shall be removed from information
19 collected under Subsection (b). A summary of the information, with
20 the identifying information described by this subsection removed,
21 shall be prepared for consideration of the review team.

22 (d) The review team shall:

23 (1) compile statistics of fetal and infant mortality;

24 (2) analyze the causes of fetal and infant mortality;

25 and

26 (3) recommend measures to decrease fetal and infant
27 mortality to a community action team formed for this purpose or to

1 state or local governmental officials or other appropriate members
2 of the community.

3 Sec. 674.004. GOVERNMENTAL UNIT. A review team is a
4 governmental unit for purposes of Chapter 101, Civil Practice and
5 Remedies Code. A review team is a unit of local government under
6 that chapter.

7 Sec. 674.005. MEETINGS. (a) Meetings of a review team are
8 closed to the public and are not subject to Chapter 551, Government
9 Code.

10 (b) A member of a review team participating in the review of
11 a death or fetal death, and any person employed by or acting in an
12 advisory capacity to the review team and who provides counsel or
13 services to the review team, are immune from civil or criminal
14 liability arising from information presented in a review team
15 meeting or recommendations resulting from the meeting.

16 Sec. 674.006. DISCLOSURE OF INFORMATION TO REVIEW TEAM.
17 (a) A review team may request information regarding a decedent or
18 the decedent's family as necessary to carry out the review team's
19 purpose and duties, including any information described by Section
20 674.003(b).

21 (b) On the request of the review team, a health care
22 provider or other custodian of the requested information shall
23 provide the information to the review team. The information shall
24 be provided without the authorization of the decedent's parent,
25 guardian, or other representative.

26 (c) A health care provider or other person who provides
27 information to a review team is not subject to a civil action for

1 damages or other relief as a result of having provided the
2 information. This subsection does not apply if the information
3 provided was false and the health care provider or other person knew
4 or had reason to know that the information was false.

5 Sec. 674.007. CONFIDENTIALITY OF RECORDS; PRIVILEGE.

6 (a) Information is confidential for purposes of this chapter if
7 the disclosure of the information would compromise the privacy of
8 the decedent or the decedent's family. Confidential information
9 includes any information pertaining to the decedent's death.

10 (b) Confidential information that is acquired by the review
11 team and that permits the identification of an individual or health
12 care provider is privileged and may not be disclosed to any person
13 except to the extent necessary to carry out the purposes of the
14 review team. Information that may not be disclosed under this
15 subsection includes:

16 (1) names and addresses of the decedent or the
17 decedent's family;

18 (2) services received by the decedent or the
19 decedent's family;

20 (3) the social and economic condition of the decedent
21 or the decedent's family;

22 (4) medical, dental, and mental health care
23 information related to the decedent or the decedent's family,
24 including diagnoses, conditions, diseases, or disability; and

25 (5) the identity of health care providers that
26 provided services to the decedent or the decedent's family.

27 (c) Review team work product and information obtained by a

1 review team, including files, records, reports, records of
2 proceedings, recommendations, meeting notes, records of
3 interviews, statements, and memoranda, are confidential and are not
4 subject to disclosure under Chapter 552, Government Code. This
5 subsection does not prevent a review team from releasing
6 information described by Subsection (d) or (e).

7 (d) Information is not confidential under this section if
8 the information is general information that cannot be connected
9 with any specific individual, case, or health care provider, such
10 as:

11 (1) total expenditures made for specified purposes;

12 (2) the number of families served by particular health
13 care providers or agencies;

14 (3) aggregated data on social and economic conditions;

15 (4) medical data and information related to health
16 care services that do not include any identifying information
17 relating to a decedent or the decedent's family; and

18 (5) other statistical information.

19 (e) A review team may publish statistical studies and
20 research reports based on information that is confidential under
21 this section, provided that the information published may not
22 identify a decedent or the decedent's family and may not include any
23 information that could be used to identify a decedent or the
24 decedent's family.

25 (f) A review team shall adopt and follow practices and
26 procedures to ensure that information that is confidential under
27 this section is not disclosed in violation of this section.

1 Sec. 674.008. IMMUNITY FROM SUBPOENA AND DISCOVERY.

2 (a) Review team work product and information obtained by a review
3 team, including files, records, reports, records of proceedings,
4 recommendations, meeting notes, records of interviews, statements,
5 and memoranda, are privileged, are not subject to subpoena or
6 discovery, and may not be introduced into evidence in any civil or
7 criminal proceeding against a member of the family of a decedent or
8 a health care provider.

9 (b) A document or other information that is otherwise
10 available from another source is not protected from subpoena,
11 discovery, or introduction into evidence under Subsection (a)
12 solely because the document or other information was presented
13 during a meeting of a review team or because a record of the
14 document or other information is maintained by the review team.

15 Sec. 674.009. UNAUTHORIZED DISCLOSURE BY REVIEW TEAM
16 MEMBER; OFFENSE. (a) A person commits an offense if the person is
17 a member of a review team and the person knowingly:

18 (1) discloses confidential information in violation
19 of Section 674.007; or

20 (2) inspects confidential information without
21 authority granted in accordance with procedures established by the
22 review team.

23 (b) An offense under Subsection (a) is a Class B
24 misdemeanor.

25 Sec. 674.010. CIVIL ACTION FOR UNAUTHORIZED DISCLOSURE. A
26 person aggrieved by the disclosure of information in violation of
27 Section 674.007 may bring an action against the person who made the

1 disclosure for damages, court costs, and attorney's fees.

2 Sec. 674.011. IMMUNITY. Except as specifically provided by
3 Section 674.010, a member of a review team is not liable for damages
4 to a person for an action taken or a recommendation made within the
5 scope of the functions of the review team if the member acts without
6 malice and in the reasonable belief that the action or
7 recommendation is warranted by the facts known to the review team
8 member.

9 Sec. 674.012. INAPPLICABILITY OF CHAPTER. This chapter
10 does not apply to disclosure of records pertaining to voluntary or
11 therapeutic termination of pregnancy, and those records may not be
12 disclosed under this chapter.

13 SECTION 2. This Act takes effect September 1, 2005.