

By: West, Royce

S.B. No. 1183

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 FATALITY REVIEW

Sec. 674.001. DEFINITIONS. In this chapter:

(1) "Decedent" means a stillborn fetus or a deceased infant, including an infant that died as a result of premature birth.

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

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

(4) "Local health authority" means a practicing physician who acts as:

(A) a municipal or county health authority;

(B) a director of a local health department or public health district; or

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

(5) "Review" means a reexamination of information regarding a decedent from relevant agencies, professionals, health

1 care providers, and the family of the decedent.

2 (6) "Review team" means the fetal and infant mortality
3 review team.

4 (7) "Stillborn fetus" means a fetus that has suffered
5 fetal death occurring after at least 20 completed weeks of
6 gestation.

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

9 (1) by a local health authority or by the Department of
10 State Health Services; or

11 (2) under a contract or in accordance with a
12 memorandum of agreement with a local health authority or the
13 Department of State Health Services.

14 (b) Local health authorities for two or more adjacent
15 counties or municipalities may join to establish a joint review
16 team.

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

22 (1) a physician;

23 (2) a nurse or nurse practitioner;

24 (3) a county attorney or a designee of a county
25 attorney;

26 (4) a representative of a school district;

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

1 (6) a forensic pathologist;

2 (7) a pediatrician;

3 (8) an obstetrician;

4 (9) a mental health professional;

5 (10) a representative from a local hospital;

6 (11) a local registrar of births and deaths;

7 (12) a person working in a supervisory position in
8 local administration of the state Medicaid program;

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

12 (14) an educator;

13 (15) a pastoral counselor;

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

16 (17) other community representatives.

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

19 (e) The review team shall select a presiding officer from
20 its members.

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

22 (a) The purpose of a review team is to improve the health and
23 well-being of women, infants, and families and to reduce racial
24 disparities in the rates of and the overall rates of fetal and
25 infant mortality.

26 (b) For a death or fetal death subject to review, the review
27 team shall collect information relating to the death of the

1 decedent, including medical, dental, and mental health care records
2 or information, autopsy reports, social services records, and other
3 pertinent records related to the decedent and the mother of the
4 decedent.

5 (c) Before review at a meeting of the review team,
6 identifying information relating to the decedent and the decedent's
7 family shall be removed from information collected under Subsection
8 (b) and a summary of the information shall be prepared for
9 consideration of the review team.

10 (d) The review team shall:

11 (1) compile statistics of fetal and infant mortality;
12 (2) analyze the preventable causes of fetal and infant
13 mortality; and

14 (3) recommend measures to prevent fetal and infant
15 mortality to a community action team formed for this purpose or to
16 state or local governmental officials or other appropriate members
17 of the community.

18 Sec. 674.004. GOVERNMENTAL UNIT. A review team is a
19 governmental unit for purposes of Chapter 101, Civil Practice and
20 Remedies Code. A review team is a unit of local government under
21 that chapter.

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

25 (b) A member of a review team participating in the review of
26 a death or fetal death, and any person employed by or acting in an
27 advisory capacity to the review team and who provides counsel or

1 services to the review team, are immune from civil or criminal
2 liability arising from information presented in a review team
3 meeting or recommendations resulting from the meeting.

4 Sec. 674.006. DISCLOSURE OF INFORMATION TO REVIEW TEAM.

5 (a) A review team may request information regarding a decedent or
6 the decedent's mother as necessary to carry out the review team's
7 purpose and duties, including any information described by Section
8 674.003(b).

9 (b) On the request of the review team, a health care
10 provider or other custodian of the requested information shall
11 provide the information to the review team. The information shall
12 be provided without the authorization of the decedent's parent,
13 guardian, or other representative.

14 (c) A health care provider or other person who provides
15 information to a review team is not subject to a civil action for
16 damages or other relief as a result of having provided the
17 information. This subsection does not apply if the information
18 provided was false and the health care provider or other person knew
19 or had reason to know that the information was false.

20 Sec. 674.007. CONFIDENTIALITY OF RECORDS; PRIVILEGE. (a)
21 Information is confidential for purposes of this chapter if the
22 disclosure of the information would compromise the privacy of the
23 decedent or the decedent's family. Confidential information
24 includes any information pertaining to the fatality of the
25 decedent.

26 (b) Confidential information that is acquired by the review
27 team and that permits the identification of an individual or health

1 care provider is privileged and may not be disclosed to any person
2 except to the extent necessary to carry out the purposes of the
3 review team. Information that may not be disclosed under this
4 subsection includes:

5 (1) names and addresses of the decedent or decedent's
6 family;

7 (2) services received by the decedent or the
8 decedent's family;

9 (3) the social and economic condition of the decedent
10 or the decedent's family;

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

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

16 (c) Review team work product and information obtained by a
17 review team, including files, records, reports, records of
18 proceedings, recommendations, meeting notes, records of
19 interviews, statements, and memoranda are confidential and are not
20 subject to disclosure under Chapter 552, Government Code. This
21 subsection does not prevent a review team from releasing
22 information described by Subsection (d) or (e).

23 (d) Information is not confidential under this section if
24 the information is general information that cannot be connected
25 with any specific individual, case, or health care provider, such
26 as:

27 (1) total expenditures made for specified purposes;

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

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

4 (4) medical data and information related to health
5 care services that does not include any identifying information
6 relating to a decedent or the decedent's family; and

7 (5) other statistical information.

8 (e) A review team may publish statistical studies and
9 research reports based on information that is confidential under
10 this section provided that the information published may not
11 identify a decedent or the decedent's family and may not include any
12 information that could be used to identify a decedent or the
13 decedent's family.

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

17 Sec. 674.008. IMMUNITY FROM SUBPOENA AND DISCOVERY. (a)
18 Review team work product and information obtained by a review team,
19 including files, records, reports, records of proceedings,
20 recommendations, meeting notes, records of interviews, statements,
21 and memoranda, are privileged, are not subject to subpoena or
22 discovery, and may not be introduced into evidence in any civil or
23 criminal proceeding against a mother of a decedent or a health care
24 provider.

25 (b) A document or other information that is otherwise
26 available from another source is not protected from subpoena,
27 discovery, or introduction into evidence under Subsection (a)

1 solely because the document or other information was presented
2 during a meeting of a review team or because a record of the
3 document or other information is maintained by the review team.

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

7 (1) discloses confidential information in violation
8 of Section 674.007; or

9 (2) inspects confidential information without
10 authority granted in accordance with procedures established by the
11 review team.

12 (b) An offense under Subsection (a) is a Class B
13 misdemeanor.

14 Sec. 674.010. CIVIL ACTION FOR UNAUTHORIZED DISCLOSURE. A
15 person aggrieved by the disclosure of information in violation of
16 Section 674.007 may bring an action against the person who made the
17 disclosure for damages, court costs, and attorney's fees.

18 Sec. 674.011. IMMUNITY. Except as specifically provided by
19 Section 647.010, a member of a review team is not liable for damages
20 to a person for an action taken or a recommendation made within the
21 scope of the functions of the review team if the member acts without
22 malice and in the reasonable belief that the action or
23 recommendation is warranted by the facts known to the review team
24 member.

25 Sec. 674.012. INAPPLICABILITY OF CHAPTER. This chapter
26 does not apply to disclosure of records pertaining to voluntary or
27 therapeutic termination of pregnancy, and those records may not be

1 disclosed under this chapter.

2 SECTION 2. Sections 264.501(3) and (8), Family Code, are
3 amended to read as follows:

4 (3) "Child" means a person at least one year of age but
5 younger than 18 years of age.

6 (8) "Preventable death" means a death that may have
7 been prevented by reasonable medical, social, legal,
8 psychological, or educational intervention. The term includes the
9 death of a child from:

- 10 (A) intentional or unintentional injuries;
11 (B) medical neglect;
12 (C) lack of access to medical care; and
13 (D) neglect and reckless conduct, including
14 failure to supervise and failure to seek medical care[~~, and~~
15 [~~(E) premature birth associated with any factor~~
16 ~~described by Paragraphs (A) through (D)~~].

17 SECTION 3. The change in law made by this Act to Section
18 264.501, Family Code, applies only to a review commenced under
19 Subchapter F, Chapter 264, Family Code, on or after the effective
20 date of this Act. A review commenced under Subchapter F, Chapter
21 264, Family Code, before the effective date of this Act is governed
22 by the law as it exists immediately before the effective date of
23 this Act, and that law is continued in effect for this purpose.

24 SECTION 4. This Act takes effect September 1, 2005.