

1-1 By: West, Zaffirini S.B. No. 1183  
1-2 (In the Senate - Filed March 9, 2005; March 21, 2005, read  
1-3 first time and referred to Committee on Health and Human Services;  
1-4 April 28, 2005, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 28, 2005,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1183 By: Gallegos

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

1-10 relating to fetal and infant mortality review; imposing penalties.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subtitle A, Title 8, Health and Safety Code, is  
1-13 amended by adding Chapter 674 to read as follows:

1-14 CHAPTER 674. FETAL AND INFANT MORTALITY REVIEW

1-15 Sec. 674.001. DEFINITIONS. In this chapter:

1-16 (1) "Decedent" means:

1-17 (A) a person for whom a fetal death certificate  
1-18 must be filed; or

1-19 (B) a deceased infant.

1-20 (2) "Fetal death certificate" means a death  
1-21 certificate filed for any fetus weighing 350 grams or more or, if  
1-22 the weight is unknown, a fetus age 20 weeks or more as calculated  
1-23 from the start date of the last normal menstrual period to the date  
1-24 of delivery.

1-25 (3) "Health care provider" means any health care  
1-26 practitioner or facility that provides medical evaluation or  
1-27 treatment, including mental health evaluation or treatment.

1-28 (4) "Infant" means a child younger than one year of  
1-29 age.

1-30 (5) "Local health authority" means:

1-31 (A) a municipal or county health authority;

1-32 (B) a director of a local health department or  
1-33 public health district; or

1-34 (C) a regional director of a public health  
1-35 region.

1-36 (6) "Review" means a reexamination of information  
1-37 regarding a decedent from relevant agencies, professionals, health  
1-38 care providers, and the family of the decedent.

1-39 (7) "Review team" means the fetal and infant mortality  
1-40 review team.

1-41 Sec. 674.002. REVIEW TEAM. (a) A fetal and infant  
1-42 mortality review team may be established only:

1-43 (1) by a local health authority or other local health  
1-44 official or by the Department of State Health Services; or

1-45 (2) under a contract or in accordance with a  
1-46 memorandum of agreement with a local health authority or other  
1-47 local health official or the Department of State Health Services.

1-48 (b) Local health authorities or other local health  
1-49 officials for two or more adjacent counties or municipalities may  
1-50 join to establish a joint review team.

1-51 (c) A review team must be composed of culturally diverse  
1-52 members representing multiple disciplines, including professionals  
1-53 and representatives of agencies that provide services or community  
1-54 resources for families in the community and community  
1-55 representatives. The review team may include:

1-56 (1) a physician, including a pediatrician, an  
1-57 obstetrician, or a physician practicing in another relevant  
1-58 specialty;

1-59 (2) a registered nurse;

1-60 (3) a county attorney or a designee of a county  
1-61 attorney;

1-62 (4) a representative of a school district;

1-63 (5) a representative of the local health department;

- 2-1 (6) a forensic pathologist;
- 2-2 (7) a mental health professional;
- 2-3 (8) a representative from a local hospital;
- 2-4 (9) a local registrar of births and deaths;
- 2-5 (10) a person working in a supervisory position in
- 2-6 local administration of the state Medicaid program;
- 2-7 (11) a person working with local implementation of the
- 2-8 Special Supplemental Nutrition Program for Women, Infants, and
- 2-9 Children;
- 2-10 (12) an educator;
- 2-11 (13) a pastoral counselor;
- 2-12 (14) a member of the health committee of a chamber of
- 2-13 commerce; and
- 2-14 (15) other community representatives.

2-15 (d) Members of a review team may select additional members

2-16 according to the resources of the review team and its needs.

2-17 (e) The review team shall select a presiding officer from

2-18 its members.

2-19 (f) A local health authority or other local health official

2-20 or the Department of State Health Services is not required to

2-21 establish a review team for a particular municipality or county.

2-22 Sec. 674.003. PURPOSE AND POWERS AND DUTIES OF REVIEW TEAM.

2-23 (a) The purpose of a review team is to:

2-24 (1) improve the health and well-being of women,

2-25 infants, and families;

2-26 (2) reduce racial disparities in the rates of and the

2-27 overall rates of fetal and infant mortality;

2-28 (3) facilitate the operations of the review team and

2-29 train review team members on the review team process; and

2-30 (4) develop and deliver reports of findings to the

2-31 community.

2-32 (b) For a death or fetal death subject to review, the review

2-33 team shall collect information relating to the death of the

2-34 decedent, including medical, dental, and mental health care records

2-35 or information, autopsy reports, social services records, and other

2-36 pertinent records related to the decedent and the family of the

2-37 decedent.

2-38 (c) Before review at a meeting of the review team, the names

2-39 and addresses of the decedent and the decedent's family and the name

2-40 and address of each health care provider that provided services to

2-41 the decedent or decedent's family shall be removed from information

2-42 collected under Subsection (b). A summary of the information, with

2-43 the identifying information described by this subsection removed,

2-44 shall be prepared for consideration of the review team.

2-45 (d) The review team shall:

2-46 (1) compile statistics of fetal and infant mortality;

2-47 (2) analyze the causes of fetal and infant mortality;

2-48 and

2-49 (3) recommend measures to decrease fetal and infant

2-50 mortality to a community action team formed for this purpose or to

2-51 state or local governmental officials or other appropriate members

2-52 of the community.

2-53 Sec. 674.004. GOVERNMENTAL UNIT. A review team is a

2-54 governmental unit for purposes of Chapter 101, Civil Practice and

2-55 Remedies Code. A review team is a unit of local government under

2-56 that chapter.

2-57 Sec. 674.005. MEETINGS. (a) Meetings of a review team are

2-58 closed to the public and are not subject to Chapter 551, Government

2-59 Code.

2-60 (b) A member of a review team participating in the review of

2-61 a death or fetal death, and any person employed by or acting in an

2-62 advisory capacity to the review team and who provides counsel or

2-63 services to the review team, are immune from civil or criminal

2-64 liability arising from information presented in a review team

2-65 meeting or recommendations resulting from the meeting.

2-66 Sec. 674.006. DISCLOSURE OF INFORMATION TO REVIEW TEAM.

2-67 (a) A review team may request information regarding a decedent or

2-68 the decedent's family as necessary to carry out the review team's

2-69 purpose and duties, including any information described by Section

3-1 674.003(b).

3-2 (b) On the request of the review team, a health care  
 3-3 provider or other custodian of the requested information shall  
 3-4 provide the information to the review team. The information shall  
 3-5 be provided without the authorization of the decedent's parent,  
 3-6 guardian, or other representative.

3-7 (c) A health care provider or other person who provides  
 3-8 information to a review team is not subject to a civil action for  
 3-9 damages or other relief as a result of having provided the  
 3-10 information. This subsection does not apply if the information  
 3-11 provided was false and the health care provider or other person knew  
 3-12 or had reason to know that the information was false.

3-13 Sec. 674.007. CONFIDENTIALITY OF RECORDS; PRIVILEGE. (a)  
 3-14 Information is confidential for purposes of this chapter if the  
 3-15 disclosure of the information would compromise the privacy of the  
 3-16 decedent or the decedent's family. Confidential information  
 3-17 includes any information pertaining to the decedent's death.

3-18 (b) Confidential information that is acquired by the review  
 3-19 team and that permits the identification of an individual or health  
 3-20 care provider is privileged and may not be disclosed to any person  
 3-21 except to the extent necessary to carry out the purposes of the  
 3-22 review team. Information that may not be disclosed under this  
 3-23 subsection includes:

3-24 (1) names and addresses of the decedent or the  
 3-25 decedent's family;

3-26 (2) services received by the decedent or the  
 3-27 decedent's family;

3-28 (3) the social and economic condition of the decedent  
 3-29 or the decedent's family;

3-30 (4) medical, dental, and mental health care  
 3-31 information related to the decedent or the decedent's family,  
 3-32 including diagnoses, conditions, diseases, or disability; and

3-33 (5) the identity of health care providers that  
 3-34 provided services to the decedent or the decedent's family.

3-35 (c) Review team work product and information obtained by a  
 3-36 review team, including files, records, reports, records of  
 3-37 proceedings, recommendations, meeting notes, records of  
 3-38 interviews, statements, and memoranda, are confidential and are not  
 3-39 subject to disclosure under Chapter 552, Government Code. This  
 3-40 subsection does not prevent a review team from releasing  
 3-41 information described by Subsection (d) or (e).

3-42 (d) Information is not confidential under this section if  
 3-43 the information is general information that cannot be connected  
 3-44 with any specific individual, case, or health care provider, such  
 3-45 as:

3-46 (1) total expenditures made for specified purposes;

3-47 (2) the number of families served by particular health  
 3-48 care providers or agencies;

3-49 (3) aggregated data on social and economic conditions;

3-50 (4) medical data and information related to health  
 3-51 care services that do not include any identifying information  
 3-52 relating to a decedent or the decedent's family; and

3-53 (5) other statistical information.

3-54 (e) A review team may publish statistical studies and  
 3-55 research reports based on information that is confidential under  
 3-56 this section, provided that the information published may not  
 3-57 identify a decedent or the decedent's family and may not include any  
 3-58 information that could be used to identify a decedent or the  
 3-59 decedent's family.

3-60 (f) A review team shall adopt and follow practices and  
 3-61 procedures to ensure that information that is confidential under  
 3-62 this section is not disclosed in violation of this section.

3-63 Sec. 674.008. IMMUNITY FROM SUBPOENA AND DISCOVERY. (a)  
 3-64 Review team work product and information obtained by a review team,  
 3-65 including files, records, reports, records of proceedings,  
 3-66 recommendations, meeting notes, records of interviews, statements,  
 3-67 and memoranda, are privileged, are not subject to subpoena or  
 3-68 discovery, and may not be introduced into evidence in any civil or  
 3-69 criminal proceeding against a member of the family of a decedent or

4-1 a health care provider.  
4-2 (b) A document or other information that is otherwise  
4-3 available from another source is not protected from subpoena,  
4-4 discovery, or introduction into evidence under Subsection (a)  
4-5 solely because the document or other information was presented  
4-6 during a meeting of a review team or because a record of the  
4-7 document or other information is maintained by the review team.

4-8 Sec. 674.009. UNAUTHORIZED DISCLOSURE BY REVIEW TEAM  
4-9 MEMBER; OFFENSE. (a) A person commits an offense if the person is a  
4-10 member of a review team and the person knowingly:

4-11 (1) discloses confidential information in violation  
4-12 of Section 674.007; or

4-13 (2) inspects confidential information without  
4-14 authority granted in accordance with procedures established by the  
4-15 review team.

4-16 (b) An offense under Subsection (a) is a Class B  
4-17 misdemeanor.

4-18 Sec. 674.010. CIVIL ACTION FOR UNAUTHORIZED DISCLOSURE. A  
4-19 person aggrieved by the disclosure of information in violation of  
4-20 Section 674.007 may bring an action against the person who made the  
4-21 disclosure for damages, court costs, and attorney's fees.

4-22 Sec. 674.011. IMMUNITY. Except as specifically provided by  
4-23 Section 674.010, a member of a review team is not liable for damages  
4-24 to a person for an action taken or a recommendation made within the  
4-25 scope of the functions of the review team if the member acts without  
4-26 malice and in the reasonable belief that the action or  
4-27 recommendation is warranted by the facts known to the review team  
4-28 member.

4-29 Sec. 674.012. INAPPLICABILITY OF CHAPTER. This chapter  
4-30 does not apply to disclosure of records pertaining to voluntary or  
4-31 therapeutic termination of pregnancy, and those records may not be  
4-32 disclosed under this chapter.

4-33 SECTION 2. This Act takes effect September 1, 2005.

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