

BILL ANALYSIS

S.B. 143
By: West, Royce
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, child fatality review teams across the state review all deaths of children from birth to age 18. A fetal and infant mortality review team (review team) would provide a better review process for fetal and infant death incidences. The review team would examine fetal and infant death cases of children up to one year of age, and would be composed of individuals from different disciplines. Removing identifying information on each case before review would allow the team to focus on the larger message—what health and social systems impacted the child's life (and the mother's life), and whether any deficiencies, flaws, or weaknesses in any of those systems contributed to or caused the death.

A key piece of this review process is a material interview, which is crucial to understanding a longer-term picture of the baby's development, mother's health care status and usage of prenatal health resources, interactions with existing community health systems, and other elements of day-to-day life that, in the end, may have contributed to the child's death. The review team would also review fetal deaths with an eye toward the systems that impacted the pregnancy loss, including those that may have played a part in the mother's health even before conception.

After information is gathered and reviewed, the trends that led to deaths are identified. This information would allow a community action team (made up of health professionals, social services entities, day care regulators, and many others) to recommend and develop strategies to improve the overall health and safety environment for infants and their mothers.

As proposed, S.B. 143 authorizes communities to institute a review team to examine fetal and infant death incidences. This bill provides immunity from subpoena and discovery to review team participants in their review of the de-identified case material and authorizes access by the review team to medical records of fetal loss and to infant death records.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Comptroller of Public Accounts in SECTION 3 of this bill.

ANALYSIS

SECTION 1. Amends Subtitle A, Title 8, Health and Safety Code, by adding Chapter 674, as follows:

CHAPTER 674. FETAL AND INFANT MORTALITY REVIEW

Sec. 674.001. DEFINITIONS. Defines "decedent," "fetal death certificate," "health care provider," "infant," "local health authority," "review," and "review team."

Sec. 674.002. REVIEW TEAM. (a) Provides that a fetal and infant mortality review team may be established only by a local health authority or other local health official or by the Department of State Health Services (department), or under a contract or in accordance with a memorandum of agreement with a local health authority or other local health official or the department.

(b) Authorizes local health authorities or other local health officials from two or more adjacent counties or municipalities to join to establish a joint review team.

(c) Provides that a review team must be composed of culturally diverse and multidisciplinary members, including certain persons who provide certain services or resources for the community and community representatives. Authorizes certain persons to be included in the review team.

(d) Authorizes the review team to select additional members based on the needs and resources of the review team.

(e) Requires the review team to select a presiding officer from its members.

(f) Provides that a local health authority, other local health official, or the department is not required to establish a review team for a particular municipality or county.

Sec. 674.003. PURPOSE AND POWERS AND DUTIES OF REVIEW TEAM. (a) Sets forth the purpose of the review team.

(b) Sets forth the information required to be collected when a case of death or fetal death is subject to review.

(c) Requires the names and addresses of the decedent, decedent's family, and each health care provider for the decedent or decedent's family to be removed from information collected under Subsection (b) before review at a meeting of the review team. Requires a summary of information, excluding identifying information, to be prepared for the review team.

(d) Requires the review team to compile statistics on fetal and infant mortality, analyze the causes of fetal and infant mortality, and recommend measures to decrease fetal and infant mortality to certain entities or persons.

Sec. 674.004. GOVERNMENTAL UNIT. Specifies that a review team is a unit of local government under Chapter 101 (Tort Claims), Civil Practice and Remedies Code.

Sec. 674.005. MEETINGS. (a) Provides that meetings of the review team are closed to the public and not subject to Chapter 551 (Open Meetings), Government Code.

(b) Specifies that a member of a review team participating in the review of a death or fetal death and certain persons employed by or acting in an advisory capacity to the review team are immune from civil or criminal liability arising from information presented or recommendations resulting from a review team meeting.

Sec. 674.006. DISCLOSURE OF INFORMATION TO REVIEW TEAM. (a) Authorizes the review team to request information regarding a decedent or the decedent's family to carry out the purpose and duties of the team, including any information described by Section 674.003(b).

(b) Requires a health care provider or other custodian of the requested information to provide information requested by the review team without the authorization from the decedent's parent, guardian, or other representative.

(c) Provides that a health care provider or other person who provides information to a review team is not subject to civil action for damages or other relief for providing said information. Specifies that this subsection does not apply if the information provided was false and the health care provider or person who provided it knew or had reason to know that the information was false.

Sec. 674.007. CONFIDENTIALITY OF RECORDS; PRIVILEGE. (a) Provides that information, the disclosure of which would compromise the privacy of the decedent or decedent's family, is confidential for purposes of this chapter. Provides that confidential information includes any information pertaining to the decedent's death.

(b) Prohibits the disclosure of certain identifying information of an individual or health care provider by the review team unless it is necessary to carry out the purposes of the review team. Sets forth the types of information that is prohibited from disclosure under this subsection.

(c) Specifies that review team work product and certain information obtained by a review team is confidential and not subject to disclosure under Chapter 552 (Open Records), Government Code. Provides that this subsection does not prevent the release of information described by Subsections (d) and (e).

(d) Sets forth the types of general information that is not confidential under this section provided that the information cannot be connected with any specific individual, case, or health care provider.

(e) Authorizes a review team to publish statistical studies and research reports based on certain confidential information, provided that the information meets certain criteria.

(f) Requires a review team to adopt and follow practices and procedures to ensure that confidential information under this section is not disclosed in violation of this section.

Sec. 674.008. IMMUNITY FROM SUBPOENA AND DISCOVERY. (a) Provides that information obtained by a review team or work product is privileged and prohibits such work product or information from being introduced into evidence against a health care provider or family member of a decedent in any civil or criminal proceeding. Provides that such work product or information not subject to subpoena or discovery.

(b) Specifies that a document available from another source is not protected from subpoena, discovery, or introduction into evidence, solely because it was presented to or because a record of the document or information is maintained by the review team.

Sec. 674.009. UNAUTHORIZED DISCLOSURE BY REVIEW TEAM MEMBER; OFFENSE. (a) Provides that a review team member commits an offense if the person knowingly discloses certain confidential information or inspects confidential information without certain authorization.

(b) Specifies that an offense under Subsection (a) is a Class A misdemeanor.

Sec. 674.010. IMMUNITY. Provides that a review team member is not liable for damages to a person for an action taken or a recommendation made within the scope of the functions of the review team if the member reasonably believes the action or recommendation is warranted by the facts known and the member acts without malice.

Sec. 674.011. INAPPLICABILITY OF CHAPTER. Provides that this chapter does not apply to disclosure of records regarding the voluntary or therapeutic termination of pregnancy. Prohibits those records from being disclosed under this chapter.

SECTION 2. Amends Section 161.084(b), Health and Safety Code, to require new text relating to the use of tobacco products by pregnant women to be included in a warning sign relating to tobacco products at the point-of-sale.

SECTION 3. Requires the comptroller of public accounts to adopt rules as necessary to implement Section 161.084, Health and Safety Code, as amended by this Act, not later than 90 days after the effective date of the Act.

EFFECTIVE DATE

September 1, 2007.

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