

A BILL TO BE ENTITLED

AN ACT

relating to fetal and infant mortality review and health warnings related to fetal and infant mortality; imposing a penalty.

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;

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

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

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

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

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

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

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

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

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

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

- 1           (2) a registered nurse;  
2           (3) a certified nurse-midwife or licensed midwife;  
3           (4) a county attorney or a designee of a county  
4 attorney;  
5           (5) a representative of a school district;  
6           (6) a representative of the local health department;  
7           (7) a forensic pathologist;  
8           (8) a mental health professional;  
9           (9) a representative from a local hospital;  
10          (10) a local registrar of births and deaths;  
11          (11) a person working in a supervisory position in  
12 local administration of the state Medicaid program;  
13          (12) a person working with local implementation of the  
14 Special Supplemental Nutrition Program for Women, Infants, and  
15 Children;  
16          (13) an educator;  
17          (14) a pastoral counselor;  
18          (15) a member of the health committee of a chamber of  
19 commerce; and  
20          (16) other community representatives.  
21          (d) Members of a review team may select additional members  
22 according to the resources of the review team and its needs.  
23          (e) The review team shall select a presiding officer from  
24 its members.  
25          (f) A local health authority or other local health official  
26 or the Department of State Health Services is not required to  
27 establish a review team for a particular municipality or county.

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

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

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

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

7                   (3) facilitate the operations of the review team and  
8 train review team members on the review team process; and

9                   (4) develop and deliver reports of findings to the  
10 community.

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

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

24           (d) The review team shall:

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

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

27 and

1           (3) recommend measures to decrease fetal and infant  
2 mortality to a community action team formed for this purpose or to  
3 state or local governmental officials or other appropriate members  
4 of the community.

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

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

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

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

19           (a) A review team may request information regarding a decedent or  
20 the decedent's family as necessary to carry out the review team's  
21 purpose and duties, including any information described by Section  
22 674.003(b).

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

1       (c) A health care provider or other person who provides  
2 information to a review team is not subject to a civil action for  
3 damages or other relief as a result of having provided the  
4 information. This subsection does not apply if the information  
5 provided was false and the health care provider or other person knew  
6 or had reason to know that the information was false.

7       Sec. 674.007. CONFIDENTIALITY OF RECORDS; PRIVILEGE.

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

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

18               (1) names and addresses of the decedent or the  
19 decedent's family;

20               (2) services received by the decedent or the  
21 decedent's family;

22               (3) the social and economic condition of the decedent  
23 or the decedent's family;

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

27               (5) the identity of health care providers that

1 provided services to the decedent or the decedent's family.

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

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

- 13 (1) total expenditures made for specified purposes;  
14 (2) the number of families served by particular health  
15 care providers or agencies;  
16 (3) aggregated data on social and economic conditions;  
17 (4) medical data and information related to health  
18 care services that do not include any identifying information  
19 relating to a decedent or the decedent's family; and  
20 (5) other statistical information.

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

27 (f) A review team shall adopt and follow practices and

1 procedures to ensure that information that is confidential under  
2 this section is not disclosed in violation of this section.

3 Sec. 674.008. IMMUNITY FROM SUBPOENA AND DISCOVERY.

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

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

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

20 (1) discloses confidential information in violation  
21 of Section 674.007; or

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

25 (b) An offense under Subsection (a) is a Class A  
26 misdemeanor.

27 Sec. 674.010. IMMUNITY. A member of a review team is not



1 liable for damages to a person for an action taken or a  
2 recommendation made within the scope of the functions of the review  
3 team if the member acts without malice and in the reasonable belief  
4 that the action or recommendation is warranted by the facts known to  
5 the review team member.

6 Sec. 674.011. INAPPLICABILITY OF CHAPTER. This chapter  
7 does not apply to disclosure of records pertaining to voluntary or  
8 therapeutic termination of pregnancy, and those records may not be  
9 disclosed under this chapter.

10 SECTION 2. Subsection (b), Section 161.084, Health and  
11 Safety Code, is amended to read as follows:

12 (b) The sign must include the statement:

13 PURCHASING OR ATTEMPTING TO PURCHASE TOBACCO PRODUCTS BY A  
14 MINOR UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW. SALE OR PROVISION  
15 OF TOBACCO PRODUCTS TO A MINOR UNDER 18 YEARS OF AGE IS PROHIBITED  
16 BY LAW. UPON CONVICTION, A CLASS C MISDEMEANOR, INCLUDING A FINE OF  
17 UP TO \$500, MAY BE IMPOSED. VIOLATIONS MAY BE REPORTED TO THE TEXAS  
18 COMPTROLLER'S OFFICE BY CALLING (insert toll-free telephone  
19 number). PREGNANT WOMEN SHOULD NOT SMOKE. SMOKERS ARE MORE LIKELY  
20 TO HAVE BABIES WHO ARE BORN WITH LOW BIRTH WEIGHT, ARE BORN  
21 PREMATURE, ARE STILLBORN, OR DIE BECAUSE OF SUDDEN INFANT DEATH  
22 SYNDROME (SIDS).

23 SECTION 3. The comptroller of public accounts shall adopt  
24 rules as necessary to implement Section 161.084, Health and Safety  
25 Code, as amended by this Act, not later than the 90th day after the  
26 effective date of this Act.

27 SECTION 4. This Act takes effect September 1, 2007.