

1-1 By: West S.B. No. 143
1-2 (In the Senate - Filed December 6, 2006; January 29, 2007,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; February 13, 2007, reported favorably by the following
1-5 vote: Yeas 8, Nays 0; February 13, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to fetal and infant mortality review and health warnings
1-9 related to fetal and infant mortality; imposing a penalty.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subtitle A, Title 8, Health and Safety Code, is
1-12 amended by adding Chapter 674 to read as follows:

1-13 CHAPTER 674. FETAL AND INFANT MORTALITY REVIEW

1-14 Sec. 674.001. DEFINITIONS. In this chapter:

1-15 (1) "Decedent" means:

1-16 (A) a person for whom a fetal death certificate
1-17 must be filed; or

1-18 (B) a deceased infant.

1-19 (2) "Fetal death certificate" means a death
1-20 certificate filed for any fetus weighing 350 grams or more or, if
1-21 the weight is unknown, a fetus age 20 weeks or more as calculated
1-22 from the start date of the last normal menstrual period to the date
1-23 of delivery.

1-24 (3) "Health care provider" means any health care
1-25 practitioner or facility that provides medical evaluation or
1-26 treatment, including mental health evaluation or treatment.

1-27 (4) "Infant" means a child younger than one year of
1-28 age.

1-29 (5) "Local health authority" means:

1-30 (A) a municipal or county health authority;

1-31 (B) a director of a local health department or
1-32 public health district; or

1-33 (C) a regional director of a public health
1-34 region.

1-35 (6) "Review" means a reexamination of information
1-36 regarding a decedent from relevant agencies, professionals, health
1-37 care providers, and the family of the decedent.

1-38 (7) "Review team" means the fetal and infant mortality
1-39 review team.

1-40 Sec. 674.002. REVIEW TEAM. (a) A fetal and infant
1-41 mortality review team may be established only:

1-42 (1) by a local health authority or other local health
1-43 official or by the Department of State Health Services; or

1-44 (2) under a contract or in accordance with a
1-45 memorandum of agreement with a local health authority or other
1-46 local health official or the Department of State Health Services.

1-47 (b) Local health authorities or other local health
1-48 officials for two or more adjacent counties or municipalities may
1-49 join to establish a joint review team.

1-50 (c) A review team must be composed of culturally diverse
1-51 members representing multiple disciplines, including professionals
1-52 and representatives of agencies that provide services or community
1-53 resources for families in the community and community
1-54 representatives. The review team may include:

1-55 (1) a physician, including a pediatrician, an
1-56 obstetrician, or a physician practicing in another relevant
1-57 specialty;

1-58 (2) a registered nurse;

1-59 (3) a certified nurse-midwife or licensed midwife;

1-60 (4) a county attorney or a designee of a county
1-61 attorney;

1-62 (5) a representative of a school district;

1-63 (6) a representative of the local health department;

1-64 (7) a forensic pathologist;

- 2-1 (8) a mental health professional;
 2-2 (9) a representative from a local hospital;
 2-3 (10) a local registrar of births and deaths;
 2-4 (11) a person working in a supervisory position in
 2-5 local administration of the state Medicaid program;
 2-6 (12) a person working with local implementation of the
 2-7 Special Supplemental Nutrition Program for Women, Infants, and
 2-8 Children;
 2-9 (13) an educator;
 2-10 (14) a pastoral counselor;
 2-11 (15) a member of the health committee of a chamber of
 2-12 commerce; and
 2-13 (16) other community representatives.

2-14 (d) Members of a review team may select additional members
 2-15 according to the resources of the review team and its needs.

2-16 (e) The review team shall select a presiding officer from
 2-17 its members.

2-18 (f) A local health authority or other local health official
 2-19 or the Department of State Health Services is not required to
 2-20 establish a review team for a particular municipality or county.

2-21 Sec. 674.003. PURPOSE AND POWERS AND DUTIES OF REVIEW TEAM.

2-22 (a) The purpose of a review team is to:

2-23 (1) improve the health and well-being of women,
 2-24 infants, and families;

2-25 (2) reduce racial disparities in the rates of and the
 2-26 overall rates of fetal and infant mortality;

2-27 (3) facilitate the operations of the review team and
 2-28 train review team members on the review team process; and

2-29 (4) develop and deliver reports of findings to the
 2-30 community.

2-31 (b) For a death or fetal death subject to review, the review
 2-32 team shall collect information relating to the death of the
 2-33 decedent, including medical, dental, and mental health care records
 2-34 or information, autopsy reports, social services records, and other
 2-35 pertinent records related to the decedent and the family of the
 2-36 decedent.

2-37 (c) Before review at a meeting of the review team, the names
 2-38 and addresses of the decedent and the decedent's family and the name
 2-39 and address of each health care provider that provided services to
 2-40 the decedent or decedent's family shall be removed from information
 2-41 collected under Subsection (b). A summary of the information, with
 2-42 the identifying information described by this subsection removed,
 2-43 shall be prepared for consideration of the review team.

2-44 (d) The review team shall:

2-45 (1) compile statistics of fetal and infant mortality;

2-46 (2) analyze the causes of fetal and infant mortality;

2-47 and

2-48 (3) recommend measures to decrease fetal and infant
 2-49 mortality to a community action team formed for this purpose or to
 2-50 state or local governmental officials or other appropriate members
 2-51 of the community.

2-52 Sec. 674.004. GOVERNMENTAL UNIT. A review team is a
 2-53 governmental unit for purposes of Chapter 101, Civil Practice and
 2-54 Remedies Code. A review team is a unit of local government under
 2-55 that chapter.

2-56 Sec. 674.005. MEETINGS. (a) Meetings of a review team are
 2-57 closed to the public and are not subject to Chapter 551, Government
 2-58 Code.

2-59 (b) A member of a review team participating in the review of
 2-60 a death or fetal death, and any person employed by or acting in an
 2-61 advisory capacity to the review team and who provides counsel or
 2-62 services to the review team, are immune from civil or criminal
 2-63 liability arising from information presented in a review team
 2-64 meeting or recommendations resulting from the meeting.

2-65 Sec. 674.006. DISCLOSURE OF INFORMATION TO REVIEW TEAM.

2-66 (a) A review team may request information regarding a decedent or
 2-67 the decedent's family as necessary to carry out the review team's
 2-68 purpose and duties, including any information described by Section
 2-69 674.003(b).

3-1 (b) On the request of the review team, a health care
 3-2 provider or other custodian of the requested information shall
 3-3 provide the information to the review team. The information shall
 3-4 be provided without the authorization of the decedent's parent,
 3-5 guardian, or other representative.

3-6 (c) A health care provider or other person who provides
 3-7 information to a review team is not subject to a civil action for
 3-8 damages or other relief as a result of having provided the
 3-9 information. This subsection does not apply if the information
 3-10 provided was false and the health care provider or other person knew
 3-11 or had reason to know that the information was false.

3-12 Sec. 674.007. CONFIDENTIALITY OF RECORDS; PRIVILEGE.

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

3-17 (b) Confidential information that is acquired by the review
 3-18 team and that permits the identification of an individual or health
 3-19 care provider is privileged and may not be disclosed to any person
 3-20 except to the extent necessary to carry out the purposes of the
 3-21 review team. Information that may not be disclosed under this
 3-22 subsection includes:

3-23 (1) names and addresses of the decedent or the
 3-24 decedent's family;

3-25 (2) services received by the decedent or the
 3-26 decedent's family;

3-27 (3) the social and economic condition of the decedent
 3-28 or the decedent's family;

3-29 (4) medical, dental, and mental health care
 3-30 information related to the decedent or the decedent's family,
 3-31 including diagnoses, conditions, diseases, or disability; and

3-32 (5) the identity of health care providers that
 3-33 provided services to the decedent or the decedent's family.

3-34 (c) Review team work product and information obtained by a
 3-35 review team, including files, records, reports, records of
 3-36 proceedings, recommendations, meeting notes, records of
 3-37 interviews, statements, and memoranda, are confidential and are not
 3-38 subject to disclosure under Chapter 552, Government Code. This
 3-39 subsection does not prevent a review team from releasing
 3-40 information described by Subsection (d) or (e).

3-41 (d) Information is not confidential under this section if
 3-42 the information is general information that cannot be connected
 3-43 with any specific individual, case, or health care provider, such
 3-44 as:

3-45 (1) total expenditures made for specified purposes;

3-46 (2) the number of families served by particular health
 3-47 care providers or agencies;

3-48 (3) aggregated data on social and economic conditions;

3-49 (4) medical data and information related to health
 3-50 care services that do not include any identifying information
 3-51 relating to a decedent or the decedent's family; and

3-52 (5) other statistical information.

3-53 (e) A review team may publish statistical studies and
 3-54 research reports based on information that is confidential under
 3-55 this section, provided that the information published may not
 3-56 identify a decedent or the decedent's family and may not include any
 3-57 information that could be used to identify a decedent or the
 3-58 decedent's family.

3-59 (f) A review team shall adopt and follow practices and
 3-60 procedures to ensure that information that is confidential under
 3-61 this section is not disclosed in violation of this section.

3-62 Sec. 674.008. IMMUNITY FROM SUBPOENA AND DISCOVERY.

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

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

4-7 Sec. 674.009. UNAUTHORIZED DISCLOSURE BY REVIEW TEAM
4-8 MEMBER; OFFENSE. (a) A person commits an offense if the person is
4-9 a member of a review team and the person knowingly:

4-10 (1) discloses confidential information in violation
4-11 of Section 674.007; or

4-12 (2) inspects confidential information without
4-13 authority granted in accordance with procedures established by the
4-14 review team.

4-15 (b) An offense under Subsection (a) is a Class A
4-16 misdemeanor.

4-17 Sec. 674.010. IMMUNITY. A member of a review team is not
4-18 liable for damages to a person for an action taken or a
4-19 recommendation made within the scope of the functions of the review
4-20 team if the member acts without malice and in the reasonable belief
4-21 that the action or recommendation is warranted by the facts known to
4-22 the review team member.

4-23 Sec. 674.011. INAPPLICABILITY OF CHAPTER. This chapter
4-24 does not apply to disclosure of records pertaining to voluntary or
4-25 therapeutic termination of pregnancy, and those records may not be
4-26 disclosed under this chapter.

4-27 SECTION 2. Subsection (b), Section 161.084, Health and
4-28 Safety Code, is amended to read as follows:

4-29 (b) The sign must include the statement:

4-30 PURCHASING OR ATTEMPTING TO PURCHASE TOBACCO PRODUCTS BY A
4-31 MINOR UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW. SALE OR PROVISION
4-32 OF TOBACCO PRODUCTS TO A MINOR UNDER 18 YEARS OF AGE IS PROHIBITED
4-33 BY LAW. UPON CONVICTION, A CLASS C MISDEMEANOR, INCLUDING A FINE OF
4-34 UP TO \$500, MAY BE IMPOSED. VIOLATIONS MAY BE REPORTED TO THE TEXAS
4-35 COMPTROLLER'S OFFICE BY CALLING (insert toll-free telephone
4-36 number). PREGNANT WOMEN SHOULD NOT SMOKE. SMOKERS ARE MORE LIKELY
4-37 TO HAVE BABIES WHO ARE BORN WITH LOW BIRTH WEIGHT, ARE BORN
4-38 PREMATURE, ARE STILLBORN, OR DIE BECAUSE OF SUDDEN INFANT DEATH
4-39 SYNDROME (SIDS).

4-40 SECTION 3. The comptroller of public accounts shall adopt
4-41 rules as necessary to implement Section 161.084, Health and Safety
4-42 Code, as amended by this Act, not later than the 90th day after the
4-43 effective date of this Act.

4-44 SECTION 4. This Act takes effect September 1, 2007.

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