BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1886
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

HIV infection can be transmitted from a mother to a baby during pregnancy, but there are effective treatments for HIV positive mothers that reduce transmission. Without treatment, about one in four pregnant women with HIV will transmit the virus to their babies. With treatment, HIV transmission is reduced to fewer than two in 100. Early detection and treatment is the key to preventing perinatal transmission.

C.S.S.B. 1886 relates to diagnostic testing of pregnant women and certain newborns.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 81.090, Health and Safety Code, to read as follows:

Sec. 81.090. DIAGNOSTIC TESTING DURING PREGNANCY AND AFTER BIRTH.

SECTION 2. Amends Section 81.090, Health and Safety Code, by amending Subsections (a)-(c) and (i)-(l), and adding Subsections (a-1), (c-1), and (c-2), as follows:

(a) Requires a physician or other person permitted by law to attend a pregnant woman during gestation or at delivery of an infant to take or cause to be taken a sample of the woman's blood or other appropriate specimen at the first examination and visit; submit the sample to an appropriately certified laboratory for diagnostic testing approved by the United States Food and Drug Administration (FDA) for syphilis, HIV infection, and hepatitis B infection, rather than submit the sample to a laboratory approved under this section for a standard serologic test for syphilis approved by the Texas Board of Health (board), a standard serologic test for HIV infection approved by the board, and a standard serologic test for hepatitis B infection approved by the board; and retain a report of each case for nine months and deliver the report to any successor in the case.

(a-1) Requires a physician or other person permitted by law to attend a pregnant woman during gestation or at delivery of an infant to take or cause to be taken a sample of the woman's blood or other appropriate specimen at an examination in the third trimester of the pregnancy; submit the sample to an appropriately certified laboratory for a diagnostic test approved by the FDA for HIV infection; and retain a report of each case for nine months and deliver the report to any successor in the case.

(b) Provides that a successor is presumed to have complied with this section if the successor in good faith obtains a record that indicates compliance with Subsections (a) and (a-1), if applicable.

(c) Makes conforming changes. Deletes existing text requiring a physician or other person in attendance at a delivery to submit the sample to a laboratory approved under this section for a standard serologic test for HIV infection approved by the board.

(c-1) Requires the physician or other person in attendance at the time of delivery, if the physician or person does not find in the woman's medical records results from the diagnostic test for HIV infection performed under Subsection (a-1), to take or cause to be taken a sample of blood or other appropriate specimen from the mother, submit the sample to an appropriately certified laboratory for diagnostic testing approved by FDA for HIV infection, and instruct the laboratory to expedite the processing of the test so that the results are received less than six hours after the time the sample is submitted.

(c-2) Requires the physician or other person in attendance at the delivery, if the physician or person does not find in the woman's medical records results from a diagnostic test for HIV infection performed under Subsection (a-1), and the diagnostic test for HIV infection was not performed before the delivery under Subsection (c-1), to take or cause to be taken a sample of blood or other appropriate specimen from the newborn child less than two hours after the time of birth; submit the sample to an appropriately certified laboratory for a diagnostic test approved by the FDA for HIV infection; and instruct the laboratory to expedite the processing of the test so that the results are received less than six hours after the time the sample is submitted.

(i) Requires the physician or other person, before conducting or causing to be conducted a diagnostic test, rather than a standard serologic test, for HIV infection under this section, to advise the woman that the result of a test taken under this section is confidential as provided by Subchapter F (Tests for Acquired Immune Deficiency Syndrome and Related Disorders), but that the test is not anonymous.

(j) Provides that the result of a test, rather than of a standard test, for HIV infection under Subsection (a)(2)(B) (relating to a required laboratory diagnostic testing for HIV infection), (a-1), (c-1), or (c-2), rather than Subsection (c)(2)(B), is a test result for purposes of Subchapter F.

(k) Requires the health care provider, before the sample, rather than blood sample, is taken, to distribute to the patient printed materials about AIDS, HIV, hepatitis B, and syphilis. Requires that the materials be provided to the health care provider by the department, rather than the Texas Department of Health, and be prepared and designated to inform the patients about certain information.

(l) Prohibits a physician or other person from conducting a diagnostic test, rather than standard test, for HIV infection under Subsection (a)(2)(B), (a-1), or (c-1), rather than Section (c)(2)(B), if the woman objects. Prohibits a physician or other person from conducting a diagnostic test for HIV infection under Subsection (c-2) if a parent, managing conservator, or guardian objects.

SECTION 3. Repealers: Sections 81.090(d) (relating to rules regarding a state, county, municipal, or private laboratory required to conduct certain samples), (e) (relating to the requirement that the commissioner provide each county clerk with certain information), (f) (relating to the requirement that a laboratory execute a test required by this section and submit a report to the physician without charge), and (h) (relating to requiring a laboratory under this section to be certified as required by the Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. Section 263a), and subsequent amendments), Health and Safety Code.

SECTION 4. (a) Makes application of Sections 81.090(a), (c), (i), and (k), Health and Safety Code, as amended by this Act, prospective.

(b) Makes application of Sections 81.090(a-1), (c-1), and (c-2), Health and Safety Code, as added by this Act, and Sections 81.090(b), (j), and (l), Health and Safety Code, as amended by this Act, prospective to January 1, 2010.

SECTION 5. Effective date: September 1, 2009.