

AN ACT

relating to newborn screening and the creation of the Newborn Screening Advisory Committee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as "Greyson's Law" in memory of Greyson Morris.

SECTION 2. Section 33.011(a-1), Health and Safety Code, is amended to read as follows:

(a-1) Except as provided by this subsection and to ~~the~~ the extent funding is available for the screening, the department shall require newborn screening tests to screen for disorders listed in the core ~~[uniform]~~ panel and in the secondary targets of the uniform newborn screening panel ~~[conditions]~~ recommended in the 2005 report by the American College of Medical Genetics entitled "Newborn Screening: Toward a Uniform Screening Panel and System" or another report determined by the department to provide more stringent ~~[more appropriate]~~ newborn screening guidelines to protect the health and welfare of this state's newborns. The department, with the advice of the Newborn Screening Advisory Committee, may require additional newborn screening tests under this subsection to screen for other disorders or conditions. The department may exclude from the newborn screening tests required under this subsection screenings for galactose epimerase and galactokinase.

SECTION 3. Subchapter B, Chapter 33, Health and Safety

1 Code, is amended by adding Section 33.017 to read as follows:

2 Sec. 33.017. NEWBORN SCREENING ADVISORY COMMITTEE. (a)

3 The department shall establish the Newborn Screening Advisory
4 Committee.

5 (b) The advisory committee consists of members appointed by
6 the commissioner of state health services. The advisory committee
7 must include the following members:

8 (1) health care providers;

9 (2) a hospital representative;

10 (3) persons who have family members affected by a
11 condition for which newborn screening is or may be required under
12 this subchapter; and

13 (4) persons who are involved in the delivery of
14 newborn screening services, follow-up, or treatment in this state.

15 (c) The advisory committee shall advise the department
16 regarding strategic planning, policy, rules, and services related
17 to newborn screening and additional newborn screening tests.

18 (d) The advisory committee shall adopt bylaws governing the
19 committee's operations.

20 (e) The advisory committee may appoint subcommittees.

21 (f) The advisory committee shall meet at least three times
22 each year and at other times at the call of the commissioner of
23 state health services.

24 (g) A member of the advisory committee is not entitled to
25 compensation, but is entitled to reimbursement for travel or other
26 expenses incurred by the member while conducting the business of
27 the advisory committee, as provided by the General Appropriations

1 Act.

2 (h) The advisory committee is not subject to Chapter 2110,
3 Government Code.

4 SECTION 4. (a) As soon as practicable after the effective
5 date of this Act, the commissioner of state health services shall
6 appoint members to the Newborn Screening Advisory Committee as
7 required under Section 33.017, Health and Safety Code, as added by
8 this Act.

9 (b) Notwithstanding Section 33.011, Health and Safety Code,
10 as amended by this Act, a physician or person attending the delivery
11 of a newborn child is not required to subject the child to the
12 additional newborn screening tests required under Section
13 33.011(a-1), Health and Safety Code, as amended by this Act, until
14 January 1, 2010.

15 SECTION 5. The heading to Section 81.090, Health and Safety
16 Code, is amended to read as follows:

17 Sec. 81.090. DIAGNOSTIC [~~SEROLOGIC~~] TESTING DURING
18 PREGNANCY AND AFTER BIRTH.

19 SECTION 6. Section 81.090, Health and Safety Code, is
20 amended by amending Subsections (a), (b), (c), (i), (j), (k), and
21 (l) and adding Subsections (a-1), (c-1), and (c-2) to read as
22 follows:

23 (a) A physician or other person permitted by law to attend a
24 pregnant woman during gestation or at delivery of an infant shall:

25 (1) take or cause to be taken a sample of the woman's
26 blood or other appropriate specimen at the first examination and
27 visit;

1 (2) submit the sample to an appropriately certified
2 ~~[a]~~ laboratory ~~[approved under this section]~~ for diagnostic testing
3 approved by the United States Food and Drug Administration for:

4 (A) ~~[a standard serologic test for]~~ syphilis
5 ~~[approved by the board];~~

6 (B) ~~[a standard serologic test for]~~ HIV infection
7 ~~[approved by the board];~~ and

8 (C) ~~[a standard serologic test for]~~ hepatitis B
9 infection ~~[approved by the board];~~ and

10 (3) retain a report of each case for nine months and
11 deliver the report to any successor in the case.

12 (a-1) A physician or other person permitted by law to attend
13 a pregnant woman during gestation or at delivery of an infant shall:

14 (1) take or cause to be taken a sample of the woman's
15 blood or other appropriate specimen at an examination in the third
16 trimester of the pregnancy;

17 (2) submit the sample to an appropriately certified
18 laboratory for a diagnostic test approved by the United States Food
19 and Drug Administration for HIV infection; and

20 (3) retain a report of each case for nine months and
21 deliver the report to any successor in the case.

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

25 (c) A physician or other person in attendance at a delivery
26 shall:

27 (1) take or cause to be taken a sample of blood or

1 other appropriate specimen from the mother on admission for
2 delivery; and

3 (2) submit the sample to an appropriately certified
4 ~~[a] laboratory [approved under this section]~~ for diagnostic testing
5 approved by the United States Food and Drug Administration for:

6 (A) ~~[a standard serologic test for]~~ syphilis
7 ~~[approved by the board]; and~~

8 (B) ~~[a standard serologic test for HIV infection~~
9 ~~approved by the board; and~~

10 ~~[(C) a standard serologic test for]~~ hepatitis B
11 infection ~~[approved by the board].~~

12 (c-1) If the physician or other person in attendance at the
13 delivery does not find in the woman's medical records results from
14 the diagnostic test for HIV infection performed under Subsection
15 (a-1), the physician or person shall:

16 (1) take or cause to be taken a sample of blood or
17 other appropriate specimen from the mother;

18 (2) submit the sample to an appropriately certified
19 laboratory for diagnostic testing approved by the United States
20 Food and Drug Administration for HIV infection; and

21 (3) instruct the laboratory to expedite the processing
22 of the test so that the results are received less than six hours
23 after the time the sample is submitted.

24 (c-2) If the physician or other person in attendance at the
25 delivery does not find in the woman's medical records results from a
26 diagnostic test for HIV infection performed under Subsection (a-1),
27 and the diagnostic test for HIV infection was not performed before

1 delivery under Subsection (c-1), the physician or other person in
2 attendance at delivery shall:

3 (1) take or cause to be taken a sample of blood or
4 other appropriate specimen from the newborn child less than two
5 hours after the time of birth;

6 (2) submit the sample to an appropriately certified
7 laboratory for a diagnostic test approved by the United States Food
8 and Drug Administration for HIV infection; and

9 (3) instruct the laboratory to expedite the processing
10 of the test so that the results are received less than six hours
11 after the time the sample is submitted.

12 (i) Before conducting or causing to be conducted a
13 diagnostic [~~standard serologic~~] test for HIV infection under this
14 section, the physician or other person shall advise the woman that
15 the result of a test taken under this section is confidential as
16 provided by Subchapter F, but that the test is not anonymous. The
17 physician or other person shall explain the difference between a
18 confidential and an anonymous test to the woman and that an
19 anonymous test may be available from another entity. The physician
20 or other person shall make the information available in another
21 language, if needed, and if resources permit. The information
22 shall be provided by the physician or another person, as needed, in
23 a manner and in terms understandable to a person who may be
24 illiterate if resources permit.

25 (j) The result of a [~~standard~~] test for HIV infection under
26 Subsection (a)(2)(B), (a-1), (c-1), or (c-2) [~~(c)(2)(B)~~] is a test
27 result for purposes of Subchapter F.

1 (k) Before the [~~blood~~] sample is taken, the health care
2 provider shall distribute to the patient printed materials about
3 AIDS, HIV, hepatitis B, and syphilis. A health care provider shall
4 verbally notify the patient that an HIV test shall be performed if
5 the patient does not object. If the patient objects, the patient
6 shall be referred to an anonymous testing facility or instructed
7 about anonymous testing methods. The health care provider shall
8 note on the medical records that the distribution of printed
9 materials was made and that verbal notification was given. The
10 materials shall be provided to the health care provider by the
11 department [~~Texas Department of Health~~] and shall be prepared and
12 designed to inform the patients about:

13 (1) the incidence and mode of transmission of AIDS,
14 HIV, hepatitis B, and syphilis;

15 (2) how being infected with HIV, AIDS, hepatitis B, or
16 syphilis could affect the health of their child;

17 (3) the available cure for syphilis;

18 (4) the available treatment to prevent
19 maternal-infant HIV transmission; and

20 (5) methods to prevent the transmission of the HIV
21 virus, hepatitis B, and syphilis.

22 (1) A physician or other person may not conduct a diagnostic
23 [~~standard~~] test for HIV infection under Subsection (a)(2)(B),
24 (a-1), or (c-1) [~~(c)(2)(B)~~] if the woman objects. A physician or
25 other person may not conduct a diagnostic test for HIV infection
26 under Subsection (c-2) if a parent, managing conservator, or
27 guardian objects.

1 SECTION 7. Sections 81.090(d), (e), (f), and (h), Health
2 and Safety Code, are repealed.

3 SECTION 8. (a) Sections 81.090(a), (c), (i), and (k),
4 Health and Safety Code, as amended by this Act, apply only to a test
5 performed on or after the effective date of this Act. A test
6 performed before the effective date of this Act is covered by the
7 law in effect immediately before the effective date of this Act, and
8 the former law is continued in effect for that purpose.

9 (b) Sections 81.090(a-1), (c-1), and (c-2), Health and
10 Safety Code, as added by this Act, and Sections 81.090(b), (j), and
11 (l), Health and Safety Code, as amended by this Act, apply only to a
12 physician or other person attending a pregnant woman during
13 gestation or at delivery of an infant on or after January 1, 2010.

14 SECTION 9. This Act does not make an appropriation. A
15 provision in this Act that creates a new governmental program,
16 creates a new entitlement, or imposes a new duty on a governmental
17 entity is not mandatory during a fiscal period for which the
18 legislature has not made a specific appropriation to implement the
19 provision.

20 SECTION 10. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 1795 was passed by the House on May 14, 2009, by the following vote: Yeas 142, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1795 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1795 on May 31, 2009, by the following vote: Yeas 134, Nays 8, 2 present, not voting.

Chief Clerk of the House

H.B. No. 1795

I certify that H.B. No. 1795 was passed by the Senate, with amendments, on May 27, 2009, by the following vote: Yeas 28, Nays 2; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1795 on May 31, 2009, by the following vote: Yeas 28, Nays 2.

Secretary of the Senate

APPROVED: _____

Date

Governor