

BILL ANALYSIS

S.B. 270
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Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Hearing loss is a common condition among newborns in the state. When a newborn's hearing is impaired during the initial stages of development, language and learning potential could be severely hindered if testing and follow-up care does not occur. Under current law, certain birthing facilities, through a program certified by the Department of State Health Services, are required to offer a hearing screening to the parents of a newborn. If a screening test shows abnormal results, follow-up care may be provided. However, interested parties assert that there is a lack of accountability and coordination in ensuring that follow-up care is provided, meaning a newborn may not always receive the necessary services in a timely manner.

S.B. 270 seeks to require that all birthing facilities perform a hearing screening on a newborn before discharging the newborn from the facility and to set up guidelines for follow-up care and intervention services if a newborn fails to pass a screening test.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 7 of this bill.

ANALYSIS

S.B. 270 amends the Health and Safety Code to redefine "birthing facility," for purposes of statutory provisions relating to hearing loss in newborns, to remove the conditions that a licensed hospital offering obstetrical services be located in a county with a population of more than 50,000 and that a licensed birthing center be located in a county with a population of more than 50,000 and that has 100 or more births per year for the term to apply to such a hospital or birthing center and to include in that term a children's hospital or a facility maintained or operated by the state or a state agency that provides obstetrical services.

S.B. 270 requires a birthing facility, through a newborn hearing screening, tracking, and intervention program certified by the Department of State Health Services (DSHS), to perform, either directly or through a transfer agreement, a hearing screening for the identification of hearing loss on each newborn or infant born at the facility before the newborn or infant is discharged from the facility except under certain circumstances, rather than requiring such a birthing facility to offer the parents of a newborn a hearing screening for the identification of hearing loss. The bill specifies that a birthing facility is not required to perform the required hearing screening if the parent declines the screening, the newborn or infant is transferred to another facility before the screening is performed, or the screening has previously been completed. The bill requires the executive commissioner of the Health and Human Services Commission (HHSC), not later than January 1, 2012, to prescribe a form to document a parent's decision to decline screening in consultation with persons and organizations interested in newborn hearing screening. The bill authorizes DSHS to post the prescribed form on the department's Internet website.

S.B. 270 requires a birthing facility to inform the parents during admission that the facility is required by law to screen a newborn or infant for hearing loss, and that the parents may decline the screening, rather than requiring the screening to be offered during the birth admission. The bill requires, rather than authorizes, DSHS to maintain data and information on each newborn or infant who receives a hearing screening, subject to provisions of law relating to the confidentiality of and access to such data. The bill specifies that the intervention required to be made available to families for a newborn identified as having hearing loss also be provided for such an infant and specifies that DSHS is required to ensure that the intervention is available for such a newborn or infant not later than the sixth month after the newborn's or infant's birth and through the time the child is an infant unless the infant has been hospitalized since birth. The bill requires the intervention specialist to report the results of the intervention to DSHS if a newborn or an infant receives medical intervention services, including a hearing aid or cochlear implant.

S.B. 270 requires the newborn hearing screening, tracking, and intervention program that performed the hearing screening to provide the newborn's or infant's parents with the screening results. The bill requires a birthing facility, through the newborn hearing screening, tracking, and intervention program, to offer a follow-up hearing screening to the parents of a newborn or infant who does not pass the screening, or refer the parents to another program for the follow-up hearing screening. The bill specifies that the follow-up hearing screening should be performed not later than the 30th day after the date the newborn or infant is discharged from the facility. The bill requires the newborn hearing screening, tracking, and intervention program that performed the follow-up hearing screening on the newborn or infant, if a newborn or infant does not pass the screening in a follow-up hearing screening, to provide the newborn's or infant's parents with the screening results; assist in scheduling a diagnostic audiological evaluation for the newborn or infant, consistent with the most current guidelines in the Joint Committee on Infant Hearing Position Statement, or refer the newborn or infant to a licensed audiologist who provides diagnostic audiological evaluations for newborns or infants that are consistent with the most current guidelines in the Joint Committee on Infant Hearing Position Statement; and refer the newborn or infant to early childhood intervention services.

S.B. 270 requires a newborn hearing screening, tracking, and intervention program, in order to be certified by DSHS, to provide information, as recommended by DSHS, to the parents on follow-up services for newborns and infants who do not pass the screening, rather than newborns and infants with abnormal screening results, and requires the program to be supervised by a physician, an audiologist, a registered nurse, or a physician assistant.

S.B. 270 includes, among other entities, the newborn's or infant's primary care physician or other applicable health care provider among the persons to whom a birthing facility that operates a newborn hearing screening, tracking, and intervention program is required to report screening results. The bill authorizes DSHS to coordinate the diagnostic audiological evaluation required under the bill's provisions and requires a diagnostic audiological evaluation to be completed on the newborn or infant not later than the third month after the newborn's or infant's birth unless the newborn or infant has been hospitalized since birth or upon referral by the newborn's or infant's primary care physician or other applicable health care provider. The bill requires an audiologist who performs a diagnostic audiological evaluation to report the results of the evaluation to the parents, the newborn's or infant's primary care physician or other applicable health care provider, and DSHS.

S.B. 270 requires, rather than authorizes, a qualified hearing screening provider, hospital, audiologist, or intervention specialist to access the information management, reporting, and tracking system to provide information to DSHS and subjects such access to provisions of law relating to the confidentiality of and access to such data. The bill adds a health care provider and physician to the persons required to access the system to provide information to DSHS and authorized to access the system to obtain certain specified data. The bill includes among the information those specified entities are authorized to obtain information from DSHS relating to the results of a hearing screening or follow-up screening performed on a newborn or infant under

the bill's provisions, the results of each diagnostic audiological evaluation required under the bill's provisions, and case level information necessary to report required statistics to the federal Centers for Disease Control and Prevention.

S.B. 270 requires a birthing facility that provides a newborn hearing screening, tracking, and intervention program to report the resulting information in the format and within the time frame specified by DSHS. The bill requires a qualified hearing screening provider, audiologist, intervention specialist, educator, or other person who receives a referral from a newborn hearing screening, tracking, and intervention program to provide the services needed by the newborn or infant or refer the newborn or infant to a person who provides the services needed by the newborn or infant, and to provide to DSHS or the department's designee, with the consent of the newborn's or infant's parent, the results of follow-up care, results of audiologic testing of an infant identified with hearing loss, and reports on the initiation of intervention services. The bill requires a qualified hearing screening provider, audiologist, intervention specialist, educator, or other person who provides services to an infant who is diagnosed with hearing loss to provide to DSHS or the department's designee, with the consent of the infant's parent, the results of follow-up care, results of audiologic testing, and reports on the initiation of intervention services. The bill requires a hospital that provides services relating to hearing loss in newborns to use the information management, reporting, and tracking system, access to which has been provided to the hospital by DSHS, to report to DSHS or the department's designee, with the consent of the infant's parent, the results of all follow-up services for an infant who does not pass the screening if the hospital provides the follow-up services, or the name of the provider or facility to which the hospital refers an infant who does not pass the screening for follow-up services. The bill authorizes a qualified hearing screening provider, hospital, health care provider, physician, audiologist, or intervention specialist, subject to provisions of law relating to the confidentiality of and access to such data, to obtain information from DSHS relating to the results of each hearing screening or follow-up screening performed on a newborn or infant; the results of each diagnostic audiological evaluation required under the bill's provisions; infants who receive follow-up care; infants identified with hearing loss; and infants who are referred for intervention services.

S.B. 270 authorizes the executive commissioner of HHSC to adopt rules for DSHS to implement provisions relating to hearing loss in newborns. The bill requires the executive commissioner, if the executive commissioner adopts rules, to consider the most current guidelines established by the Joint Committee on Infant Hearing.

S.B. 270 specifies that a midwife who attends the birth of a newborn is not required to offer the parents of the newborn a hearing screening for the newborn for the identification of hearing loss and requires a midwife to refer the parents of the newborn to a birthing facility or a provider that participates in the program and to make a record of the referral. The bill defines "midwife" for purposes of statutory provisions relating to the duties of a midwife.

S.B. 270 specifies that a person or facility is not required to comply with the changes made by the bill until January 1, 2012.

S.B. 270 repeals Section 47.002, Health and Safety Code, exempting a facility operated by a midwife from provisions of law relating to newborn hearing loss.

EFFECTIVE DATE

September 1, 2011.