

## **BILL ANALYSIS**

C.S.H.B. 1471  
By: Laubenberg  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Recent legislation that sought to address confidentiality concerns about how newborn screening information is disclosed by the Department of State Health Services (DSHS) included a requirement for birthing facilities to perform newborn hearing screenings either directly or through a transfer agreement. Interested parties assert that many concerns were raised by midwives and owners or operators of birthing facilities that the transfer agreement requirement was not appropriate. According to these parties, a group of stakeholders, including the Texas Hospital Association, organized by DSHS to address the transfer agreement language agreed and recommended that the language simply reference a referral process. C.S.H.B. 1471 seeks to codify this recommendation.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 1471 amends the Health and Safety Code to specify that the newborn hearing screening required to be performed by a birthing facility through a program certified by the Department of State Health Services (DSHS) must be performed either directly or through a referral to another program certified by DSHS, rather than through a transfer agreement. The bill includes among the exemptions to the screening requirement that the newborn was discharged from the birthing facility not more than 10 hours after birth and a referral for the newborn was made to a DSHS-certified program at another birthing facility or operated by a physician or health care provider.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1471 differs from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences

between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Section 47.003(a), Health and Safety Code, is amended to read as follows:

(a) A birthing facility, through a program certified by the department under Section 47.004, shall perform, either directly or through a referral to another program certified under that section [~~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 unless:

- (1) the parent declines the screening;
- (2) the newborn or infant is transferred to another facility before the screening is performed; [~~or~~]
- (3) the screening has previously been completed; or
- (4) the newborn was discharged from the birthing facility not more than 10 hours after birth and a referral for the newborn was made to a program certified under Section 47.004 at another birthing facility or health care provider.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 47.003(a), Health and Safety Code, is amended to read as follows:

(a) A birthing facility, through a program certified by the department under Section 47.004, shall perform, either directly or through a referral to another program certified under that section [~~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 unless:

- (1) the parent declines the screening;
- (2) the newborn or infant is transferred to another facility before the screening is performed; [~~or~~]
- (3) the screening has previously been completed; or
- (4) the newborn was discharged from the birthing facility not more than 10 hours after birth and a referral for the newborn was made to a program certified under Section 47.004 at another birthing facility or operated by a physician or other health care provider.

SECTION 2. Same as introduced version.