

By: Crownover, Thompson of Harris, Keffer,  
et al.

H.B. No. 740

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to newborn screening for critical congenital heart disease  
3 and other disorders.

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

5 SECTION 1. Section 33.001, Health and Safety Code, is  
6 amended by amending Subdivision (1) and adding Subdivisions (1-a)  
7 and (1-b) to read as follows:

8 (1) "Birthing facility" means an inpatient or  
9 ambulatory health care facility that offers obstetrical or newborn  
10 care services. The term includes:

11 (A) a hospital licensed under Chapter 241 that  
12 offers obstetrical services;

13 (B) a birthing center licensed under Chapter 244;

14 (C) a children's hospital; or

15 (D) a facility that provides obstetrical  
16 services and is maintained and operated by this state or an agency  
17 of this state.

18 (1-a) "Critical congenital heart disease" means an  
19 abnormality in the structure or function of the heart that exists at  
20 birth, causes severe, life-threatening symptoms, and requires  
21 medical intervention within the first few hours, days, or months of  
22 life.

23 (1-b) "Heritable disease" means an inherited disease  
24 that may result in mental or physical retardation or death.

1 SECTION 2. Section 33.011, Health and Safety Code, is  
2 amended by amending Subsections (a), (a-1), and (c) and adding  
3 Subsections (d), (e), and (f) to read as follows:

4 (a) The physician attending a newborn child or the person  
5 attending the delivery of a newborn child that is not attended by a  
6 physician shall cause the child to be subjected [~~subject the child~~]  
7 to screening tests approved by the department for phenylketonuria,  
8 other heritable diseases, hypothyroidism, and other disorders for  
9 which screening is required by the department.

10 (a-1) Except as provided by this subsection and to the  
11 extent funding is available for the screening, the department shall  
12 require newborn screening tests to screen for disorders listed as  
13 core and secondary conditions in the December 2011 Recommended  
14 Uniform Screening Panel of the Secretary's Advisory Committee on  
15 Heritable Disorders in Newborns and Children [~~core panel and in the~~  
16 ~~secondary targets of the uniform newborn screening panel~~  
17 ~~recommended in the 2005 report by the American College of Medical~~  
18 ~~Genetics entitled "Newborn Screening: Toward a Uniform Screening~~  
19 ~~Panel and System"~~] or another report determined by the department  
20 to provide more stringent newborn screening guidelines to protect  
21 the health and welfare of this state's newborns. The department,  
22 with the advice of the Newborn Screening Advisory Committee, may  
23 require additional newborn screening tests under this subsection to  
24 screen for other disorders or conditions. The department may  
25 exclude from the newborn screening tests required under this  
26 subsection screenings for galactose epimerase and galactokinase.

27 (c) Except as provided by Subsection (d), the [~~The~~]

1 screening tests required by this section must be performed by the  
2 laboratory established by the department or by a laboratory  
3 approved by the department under Section 33.016.

4 (d) The department, with the advice of the Newborn Screening  
5 Advisory Committee, shall authorize a screening test for critical  
6 congenital heart disease to be performed at a birthing facility  
7 that provides care to newborn patients and that complies with the  
8 test procedures and the standards of accuracy and precision  
9 required by the department for each screening test.

10 (e) If the department under Subsection (d) authorizes the  
11 performance at a birthing facility of a screening test for critical  
12 congenital heart disease, a birthing facility must perform the  
13 screening test on each newborn who is a patient of the facility  
14 before the newborn is discharged from the facility unless:

15 (1) the parent declines the screening;

16 (2) the newborn is transferred to another facility  
17 before the screening test is performed;

18 (3) the screening test has previously been completed;

19 or

20 (4) the newborn is discharged from the birthing  
21 facility not more than 10 hours after birth and a referral for the  
22 newborn was made to another birthing facility, physician, or health  
23 care provider.

24 (f) Before requiring any additional screening test for  
25 critical congenital heart disease, the department must review the  
26 necessity of the additional screening test, including an assessment  
27 of the test implementation costs to the department, birthing

1 facilities, and other health care providers.

2 SECTION 3. Section 33.0111, Health and Safety Code, is  
3 amended by amending Subsections (a), (b), and (f) and adding  
4 Subsection (h) to read as follows:

5 (a) The department shall develop a disclosure statement  
6 that clearly discloses to the parent, managing conservator, or  
7 guardian of a newborn child subjected to screening tests under  
8 Section 33.011:

9 (1) that the department or a laboratory established or  
10 approved by the department under Section 33.016 may retain for use  
11 by the department or laboratory genetic material used to conduct  
12 the newborn screening tests and discloses how the material is  
13 managed and used subject to this section and Sections 33.0112 and  
14 33.018 [~~33.017~~]; [~~and~~]

15 (2) that reports, records, and information obtained by  
16 the department under this chapter that do not identify a child or  
17 the family of a child will not be released for public health  
18 research purposes under Section 33.018(c-1) [~~33.017(c-1)~~] unless a  
19 parent, managing conservator, or guardian of the child consents to  
20 disclosure; and

21 (3) that newborn screening blood spots and associated  
22 data are confidential under law and may only be used as described by  
23 Section 33.018 [~~33.017~~].

24 (b) The disclosure statement required by Subsection (a)  
25 must be included on the form developed by the department to inform  
26 parents about newborn screening. The disclosure statement must:

27 (1) be in a format that allows a parent, managing

1 conservator, or guardian of a newborn child to consent to  
2 disclosure under Section 33.018(c-1) [~~33.017(c-1)~~];

3 (2) include instructions on how to complete the  
4 portions of the form described by Subdivision (1);

5 (3) include the department's mailing address; and

6 (4) describe how a parent, managing conservator, or  
7 guardian of a newborn child may obtain information regarding  
8 consent through alternative sources.

9 (f) This section does not supersede the requirements  
10 imposed by Section 33.018 [~~33.017~~].

11 (h) Nothing in this section prohibits a physician attending  
12 a newborn child from delegating the physician's responsibilities  
13 under this section to any qualified and properly trained person  
14 acting under the physician's supervision.

15 SECTION 4. Section 33.015(a), Health and Safety Code, is  
16 amended to read as follows:

17 (a) Each physician, health authority, birthing facility, or  
18 other individual who has the information of a confirmed case of a  
19 disorder for which a screening test is required that has been  
20 detected by a mechanism other than identification through a  
21 screening of a specimen by the department's diagnostic laboratory  
22 shall report the confirmed case to the department.

23 SECTION 5. Sections 33.017(b) and (c), Health and Safety  
24 Code, are amended to read as follows:

25 (b) The advisory committee consists of members appointed by  
26 the commissioner of state health services. The advisory committee  
27 must include the following members:

1           (1) at least four physicians licensed to practice  
2 medicine in this state, including at least two physicians  
3 specializing in neonatal-perinatal medicine [~~health care~~  
4 ~~providers~~];

5           (2) at least two [~~a~~] hospital representatives  
6 [~~representative~~];

7           (3) at least two persons who have family members  
8 affected by a condition for which newborn screening is or may be  
9 required under this subchapter; and

10          (4) at least two health care providers [~~persons~~] who  
11 are involved in the delivery of newborn screening services,  
12 follow-up, or treatment in this state.

13          (c) The advisory committee shall:

14           (1) advise the department regarding strategic  
15 planning, policy, rules, and services related to newborn screening  
16 and additional newborn screening tests for each disorder included  
17 in the list described by Section 33.011(a-1); and

18           (2) review the necessity of requiring additional  
19 screening tests, including an assessment of the test implementation  
20 costs to the department, birthing facilities, and other health care  
21 providers.

22          SECTION 6. Section 33.0111(g), Health and Safety Code, is  
23 repealed.

24          SECTION 7. As soon as practicable after the effective date  
25 of this Act, the Department of State Health Services shall  
26 implement the changes in law made by this Act to the newborn  
27 screening program under Chapter 33, Health and Safety Code.

1           SECTION 8. (a) The change in law made by this Act in  
2 amending Section 33.017, Health and Safety Code, regarding the  
3 qualifications of members of the Newborn Screening Advisory  
4 Committee does not affect the entitlement of a member serving on the  
5 committee immediately before the effective date of this Act to  
6 continue to serve as a member of the committee for the remainder of  
7 the member's term. The change in law applies only to a member  
8 appointed on or after the effective date of this Act.

9           (b) As soon as practicable after the effective date of this  
10 Act, the commissioner of state health services shall appoint the  
11 additional committee members required by Section 33.017, Health and  
12 Safety Code, as amended by this Act.

13           SECTION 9. This Act takes effect September 1, 2013.