

1-1 By: Huffman, West S.B. No. 495
 1-2 (In the Senate - Filed February 11, 2013; February 13, 2013,
 1-3 read first time and referred to Committee on Health and Human
 1-4 Services; April 23, 2013, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
 1-6 April 23, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 495 By: Huffman

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the creation of a task force to study maternal mortality
 1-22 and severe maternal morbidity.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle B, Title 2, Health and Safety Code, is
 1-25 amended by adding Chapter 34 to read as follows:

1-26 CHAPTER 34. MATERNAL MORTALITY AND MORBIDITY TASK FORCE

1-27 Sec. 34.001. DEFINITIONS. In this chapter:

1-28 (1) "Commissioner" means the commissioner of state
 1-29 health services.

1-30 (2) "Department" means the Department of State Health
 1-31 Services.

1-32 (3) "Executive commissioner" means the executive
 1-33 commissioner of the Health and Human Services Commission.

1-34 (4) "Health care provider" means an individual or
 1-35 facility licensed, certified, or otherwise authorized to
 1-36 administer health care, for profit or otherwise, in the ordinary
 1-37 course of business or professional practice, including a physician
 1-38 or a hospital or birthing center.

1-39 (5) "Institution of higher education" has the meaning
 1-40 assigned by Section 61.003, Education Code.

1-41 (6) "Intrapartum care" has the meaning assigned by
 1-42 Section 32.002.

1-43 (7) "Life-threatening condition" means a condition
 1-44 from which the likelihood of death is probable unless the course of
 1-45 the condition is interrupted.

1-46 (8) "Maternal morbidity" means a pregnancy-related
 1-47 health condition occurring during pregnancy, labor, or delivery or
 1-48 within one year of delivery or end of pregnancy.

1-49 (9) "Patient" means the woman who while pregnant or
 1-50 within one year of delivery or end of pregnancy suffers death or
 1-51 severe maternal morbidity.

1-52 (10) "Perinatal care" has the meaning assigned by
 1-53 Section 32.002.

1-54 (11) "Physician" means a person licensed to practice
 1-55 medicine in this state under Subtitle B, Title 3, Occupations Code.

1-56 (12) "Pregnancy-related death" means the death of a
 1-57 woman while pregnant or within one year of delivery or end of
 1-58 pregnancy, regardless of the duration and site of the pregnancy,
 1-59 from any cause related to or aggravated by the pregnancy or its
 1-60 management, but not from accidental or incidental causes.

2-1 (13) "Severe maternal morbidity" means maternal
2-2 morbidity that constitutes a life-threatening condition.

2-3 (14) "Task force" means the Maternal Mortality and
2-4 Morbidity Task Force.

2-5 Sec. 34.002. MATERNAL MORTALITY AND MORBIDITY TASK FORCE.
2-6 (a) The Maternal Mortality and Morbidity Task Force is
2-7 administered by the department.

2-8 (b) The task force is a multidisciplinary advisory
2-9 committee within the department and is composed of the following 15
2-10 members:

2-11 (1) 13 members appointed by the commissioner as
2-12 follows:

2-13 (A) four physicians specializing in obstetrics,
2-14 at least one of whom is a maternal fetal medicine specialist;

2-15 (B) one certified nurse-midwife;

2-16 (C) one registered nurse;

2-17 (D) one physician specializing in family
2-18 practice;

2-19 (E) one physician specializing in psychiatry;

2-20 (F) one physician specializing in pathology;

2-21 (G) one epidemiologist, biostatistician, or
2-22 researcher of pregnancy-related deaths;

2-23 (H) one social worker or social service provider;

2-24 (I) one community advocate in a relevant field;

2-25 and

2-26 (J) one medical examiner or coroner responsible
2-27 for recording deaths;

2-28 (2) a representative of the department's family and
2-29 community health programs; and

2-30 (3) the state epidemiologist for the department or the
2-31 epidemiologist's designee.

2-32 (c) In appointing members to the task force, the
2-33 commissioner shall:

2-34 (1) include members:

2-35 (A) working in and representing communities that
2-36 are diverse with regard to race, ethnicity, immigration status, and
2-37 English proficiency; and

2-38 (B) from differing geographic regions in the
2-39 state, including both rural and urban areas;

2-40 (2) endeavor to include members who are working in and
2-41 representing communities that are affected by pregnancy-related
2-42 deaths and severe maternal morbidity and by a lack of access to
2-43 relevant perinatal and intrapartum care services; and

2-44 (3) ensure that the composition of the task force
2-45 reflects the racial, ethnic, and linguistic diversity of this
2-46 state.

2-47 (d) The commissioner shall appoint from among the task force
2-48 members a presiding officer.

2-49 (e) A member of the task force appointed under Subsection
2-50 (b)(1) is not entitled to compensation for service on the task force
2-51 or reimbursement for travel or other expenses incurred by the
2-52 member while conducting the business of the task force.

2-53 (f) In carrying out its duties, the task force may use
2-54 technology, including teleconferencing or videoconferencing, to
2-55 eliminate travel expenses.

2-56 Sec. 34.003. TERMS; VACANCY. (a) Task force members
2-57 appointed by the commissioner serve staggered six-year terms, with
2-58 the terms of four or five members, as appropriate, expiring
2-59 February 1 of each odd-numbered year.

2-60 (b) A task force member may serve more than one term.

2-61 (c) A vacancy on the task force shall be filled for the
2-62 unexpired term in the same manner as the original appointment.

2-63 Sec. 34.004. MEETINGS. (a) The task force shall meet at
2-64 least quarterly. The task force may meet at other times at the call
2-65 of the commissioner.

2-66 (b) Meetings of the task force are closed to the public and
2-67 are not subject to Chapter 551, Government Code.

2-68 Sec. 34.005. DUTIES OF TASK FORCE. The task force shall:

2-69 (1) study and review:

3-1 (A) cases of pregnancy-related deaths; and
 3-2 (B) trends in severe maternal morbidity;
 3-3 (2) determine the feasibility of the task force
 3-4 studying cases of severe maternal morbidity; and
 3-5 (3) make recommendations to help reduce the incidence
 3-6 of pregnancy-related deaths and severe maternal morbidity in this
 3-7 state.

3-8 Sec. 34.006. CONSULTATIONS AND AGREEMENTS WITH OUTSIDE
 3-9 PARTIES. (a) The department and task force may consult with any
 3-10 relevant experts and stakeholders, including:

- 3-11 (1) anesthesiologists;
- 3-12 (2) intensivists or critical care physicians;
- 3-13 (3) nutritionists;
- 3-14 (4) substance abuse treatment specialists;
- 3-15 (5) hospital staff or employees;
- 3-16 (6) representatives of the state Medicaid program;
- 3-17 (7) paramedics or other emergency medical response
 3-18 personnel;
- 3-19 (8) hospital-based risk management specialists;
- 3-20 (9) representatives of local health departments and
 3-21 public health districts in this state;
- 3-22 (10) public health experts;
- 3-23 (11) government representatives or officials; and
- 3-24 (12) law enforcement officials.

3-25 (b) In gathering information, the department and task force
 3-26 may consult with representatives of any relevant state professional
 3-27 associations and organizations, including:

- 3-28 (1) District XI of the American Congress of
 3-29 Obstetricians and Gynecologists;
- 3-30 (2) the Texas Association of Obstetricians and
 3-31 Gynecologists;
- 3-32 (3) the Texas Nurses Association;
- 3-33 (4) the Texas Section of the Association of Women's
 3-34 Health, Obstetric and Neonatal Nurses;
- 3-35 (5) the Texas Academy of Family Physicians;
- 3-36 (6) the Texas Pediatric Society;
- 3-37 (7) the Consortium of Texas Certified Nurse-Midwives;
- 3-38 (8) the Association of Texas Midwives;
- 3-39 (9) the Texas Hospital Association;
- 3-40 (10) the Texas Medical Association; and
- 3-41 (11) the Texas Public Health Association.

3-42 (c) In consulting with individuals or organizations under
 3-43 Subsection (a) or (b), a member of the task force or employee of the
 3-44 department may not disclose any identifying information of a
 3-45 patient or health care provider.

3-46 (d) The department on behalf of the task force may enter
 3-47 into agreements with institutions of higher education or other
 3-48 organizations consistent with the duties of the department or task
 3-49 force under this chapter.

3-50 Sec. 34.007. SELECTION AND REVIEW OF CASES. (a) The
 3-51 department shall determine a statistically significant number of
 3-52 cases of pregnancy-related deaths for review. The department shall
 3-53 randomly select cases for the task force to review under this
 3-54 subsection to reflect a cross-section of pregnancy-related deaths
 3-55 in this state.

3-56 (b) The department shall analyze aggregate data of severe
 3-57 maternal morbidity in this state to identify any trends.

3-58 (c) If feasible, the department may select cases of severe
 3-59 maternal morbidity for review. In selecting cases under this
 3-60 subsection, the department shall randomly select cases for the task
 3-61 force to review to reflect trends identified under Subsection (b).

3-62 Sec. 34.008. OBTAINING DE-IDENTIFIED INFORMATION FOR
 3-63 REVIEW. (a) On selecting a case of pregnancy-related death or
 3-64 severe maternal morbidity for review, the department shall, in
 3-65 accordance with this section, obtain information relevant to the
 3-66 case to enable the task force to review the case. The department
 3-67 shall provide the information to the task force.

3-68 (b) The information provided to the task force may not
 3-69 include identifying information of a patient or health care

4-1 provider, including:

4-2 (1) the name, address, or date of birth of the patient
4-3 or a member of the patient's family; or

4-4 (2) the name or specific location of a health care
4-5 provider that treated the patient.

4-6 (c) On the request of the department, a hospital, birthing
4-7 center, or other custodian of the requested information shall
4-8 provide the information to the department. The information shall
4-9 be provided without the authorization of the patient or, if the
4-10 patient is deceased, without the authorization of the patient's
4-11 family.

4-12 (d) A person who provides information to the department
4-13 under this section is not subject to an administrative, civil, or
4-14 criminal action for damages or other relief for providing the
4-15 information.

4-16 Sec. 34.009. CONFIDENTIALITY; PRIVILEGE. (a) Any
4-17 information pertaining to a pregnancy-related death or severe
4-18 maternal morbidity is confidential for purposes of this chapter.

4-19 (b) Confidential information that is acquired by the
4-20 department and that includes identifying information of an
4-21 individual or health care provider is privileged and may not be
4-22 disclosed to any person. Information that may not be disclosed
4-23 under this subsection includes:

4-24 (1) the name and address of a patient or a member of
4-25 the patient's family;

4-26 (2) any service received by the patient or a member of
4-27 the patient's family;

4-28 (3) the social and economic condition of the patient
4-29 or a member of the patient's family;

4-30 (4) medical, dental, and mental health care
4-31 information related to the patient or a member of the patient's
4-32 family, including diagnoses, conditions, diseases, or disability;
4-33 and

4-34 (5) the identity of a health care provider that
4-35 provided any services to the patient or a member of the patient's
4-36 family.

4-37 (c) Task force work product or information obtained by the
4-38 department under this chapter, including information contained in
4-39 an electronic database established and maintained under Section
4-40 34.012, or any other document or record, is confidential. This
4-41 subsection does not prevent the task force or department from
4-42 releasing information described by Subsection (d) or (e) or from
4-43 submitting the report required by Section 34.015.

4-44 (d) Information is not confidential under this section if
4-45 the information is general information that cannot be connected
4-46 with any specific individual, case, or health care provider, such
4-47 as:

4-48 (1) total expenditures made for specified purposes;

4-49 (2) the number of families served by particular health
4-50 care providers or agencies;

4-51 (3) aggregated data on social and economic conditions;

4-52 (4) medical data and information related to health
4-53 care services that do not include any identifying information
4-54 relating to a patient or the patient's family; and

4-55 (5) other statistical information.

4-56 (e) The task force may publish statistical studies and
4-57 research reports based on information that is confidential under
4-58 this section, provided that the information:

4-59 (1) is published in the aggregate;

4-60 (2) does not identify a patient or the patient's
4-61 family;

4-62 (3) does not include any information that could be
4-63 used to identify a patient or the patient's family; and

4-64 (4) does not identify a health care provider.

4-65 (f) The department shall adopt and implement practices and
4-66 procedures to ensure that information that is confidential under
4-67 this section is not disclosed in violation of this section.

4-68 (g) Information that is confidential under this section is
4-69 excepted from disclosure under Chapter 552, Government Code, as

5-1 provided by Section 552.101 of that chapter.

5-2 (h) The task force and the department shall comply with all
 5-3 state and federal laws and rules relating to the transmission of
 5-4 health information, including the Health Insurance Portability and
 5-5 Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted
 5-6 under that Act.

5-7 Sec. 34.010. SUBPOENA AND DISCOVERY. Task force work
 5-8 product or information that is confidential under Section 34.009 is
 5-9 privileged, is not subject to subpoena or discovery, and may not be
 5-10 introduced into evidence in any administrative, civil, or criminal
 5-11 proceeding against a patient, a member of the family of a patient,
 5-12 or a health care provider.

5-13 Sec. 34.011. IMMUNITY. (a) A member of the task force or a
 5-14 person employed by or acting in an advisory capacity to the task
 5-15 force and who provides information, counsel, or services to the
 5-16 task force is not liable for damages for an action taken within the
 5-17 scope of the functions of the task force.

5-18 (b) Subsection (a) does not apply if the person acts with
 5-19 malice or without the reasonable belief that the action is
 5-20 warranted by the facts known to the person.

5-21 (c) This section does not provide immunity to a person
 5-22 described by Subsection (a) for a violation of a state or federal
 5-23 law or rule relating to the privacy of health information or the
 5-24 transmission of health information, including the Health Insurance
 5-25 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)
 5-26 and rules adopted under that Act.

5-27 Sec. 34.012. DATABASE OF DE-IDENTIFIED INFORMATION.
 5-28 (a) The department may establish and maintain an electronic
 5-29 database to track cases of pregnancy-related deaths and severe
 5-30 maternal morbidity to assist the department and task force in
 5-31 performing functions under this chapter.

5-32 (b) The information in the database may not include
 5-33 identifying information, including:

5-34 (1) the name of a patient; or
 5-35 (2) the name or specific location of a health care
 5-36 provider that treated a patient.

5-37 (c) The database may be accessed only by the department and
 5-38 the task force for the purposes described in this chapter.

5-39 Sec. 34.013. INAPPLICABILITY OF CHAPTER. This chapter does
 5-40 not apply to disclosure of records pertaining to voluntary or
 5-41 therapeutic termination of pregnancy, and those records may not be
 5-42 collected, maintained, or disclosed under this chapter.

5-43 Sec. 34.014. FUNDING. (a) The department shall apply for
 5-44 and use any available federal money to fund the duties of the
 5-45 department and the task force under this chapter.

5-46 (b) The department may accept gifts and grants from any
 5-47 source to fund the duties of the department and the task force under
 5-48 this chapter.

5-49 Sec. 34.015. REPORTS. (a) Not later than September 1 of
 5-50 each even-numbered year, the task force and the department shall
 5-51 submit a joint report on the findings of the task force under this
 5-52 chapter to the governor, lieutenant governor, speaker of the house
 5-53 of representatives, and appropriate committees of the legislature.

5-54 (b) The report must include the task force's
 5-55 recommendations under Section 34.005(a)(3).

5-56 (c) The department shall disseminate the report to the state
 5-57 professional associations and organizations listed in Section
 5-58 34.006(b) and make the report publicly available in paper or
 5-59 electronic form.

5-60 Sec. 34.016. RULES. The executive commissioner may adopt
 5-61 rules to implement this chapter.

5-62 Sec. 34.017. DEPARTMENT ACCESS TO INFORMATION.
 5-63 (a) Notwithstanding Chapter 108 or any other law, the department
 5-64 may have access to the following information that may include the
 5-65 identity of a patient to fulfill its duties under this chapter:

5-66 (1) birth records;
 5-67 (2) fetal death records;
 5-68 (3) maternal death records; and
 5-69 (4) hospital and birthing center discharge data.

6-1 (b) The department may not disclose the information
6-2 described by Subsection (a) to the task force or any other person.
6-3 Sec. 34.018. SUNSET PROVISION. The task force is subject to
6-4 Chapter 325, Government Code (Texas Sunset Act). Unless continued
6-5 in existence as provided by that chapter, the task force is
6-6 abolished and this chapter expires September 1, 2019.

6-7 SECTION 2. (a) Not later than September 1, 2014, the
6-8 Department of State Health Services shall submit a report to the
6-9 governor, lieutenant governor, speaker of the house of
6-10 representatives, and appropriate committees of the legislature
6-11 outlining:

6-12 (1) the department's progress in establishing the
6-13 Maternal Mortality and Morbidity Task Force required by Chapter 34,
6-14 Health and Safety Code, as added by this Act; and

6-15 (2) any recommendations for legislation to assist the
6-16 department in studying pregnancy-related deaths and severe
6-17 maternal morbidity.

6-18 (b) The Department of State Health Services and the Maternal
6-19 Mortality and Morbidity Task Force created by Chapter 34, Health
6-20 and Safety Code, as added by this Act, are not required to submit
6-21 the first report required by Section 34.015, Health and Safety
6-22 Code, as added by this Act, before September 1, 2016.

6-23 (c) Not later than December 1, 2013, the commissioner of
6-24 state health services shall appoint the members of the Maternal
6-25 Mortality and Morbidity Task Force in accordance with Subdivision
6-26 (1), Subsection (b), Section 34.002, Health and Safety Code, as
6-27 added by this Act. In making the initial appointments, the
6-28 commissioner shall designate five members to serve terms expiring
6-29 February 1, 2015, four members to serve terms expiring February 1,
6-30 2017, and four members to serve terms expiring February 1, 2019.

6-31 SECTION 3. This Act takes effect September 1, 2013.

6-32 * * * * *