

BILL ANALYSIS

Senate Research Center
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H.B. 1670
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

For a variety of reasons, some women prefer to take home their placentas after giving birth. Current statute does not address this practice, leading to questions of public safety and individual rights to the placenta.

H.B. 1670 would prohibit a hospital or birthing center from requiring a court order to release the placenta of a woman who has recently given birth in the facility to her; or her spouse if she is incapacitated or deceased. The woman must test negative for infectious diseases. Second, the person who is taking possession of the placenta must sign a form that verifies they have received educational information regarding blood-borne diseases from placentas and the proper handling of placentas, that they are taking it for personal use, and that it will not be sold.

The hospital or birthing center must also retain a copy of the signed form with the woman's medical records. The Department of State Health Services (DSHS) would be required to develop the above form and the educational information and post the form and information on their website.

H.B. 1670 expressly does not prohibit a pathological examination of the delivered placenta that is ordered by a physician or required by a policy of the hospital or birthing center, specifies that the requirement for a hospital or birthing center to allow the removal of a placenta from the facility does not apply to the portion of a delivered placenta that is necessary for such an examination, and expressly does not authorize a woman or the woman's spouse to interfere with such an examination. The bill establishes that a hospital or birthing center that allows a person to take possession of and remove from the facility a delivered placenta in compliance with the bill's provisions is not required to dispose of the placenta as medical waste. The bill establishes that a hospital or birthing center that acts in accordance with the bill's provisions is not liable for the act in a civil action, a criminal prosecution, or an administrative proceeding.

H.B. 1670 requires the executive commissioner of the Health and Human Services Commission, not later than December 1, 2015, to adopt the rules necessary to implement the bill's provisions. The bill specifies that a hospital or birthing facility is not required to comply with the bill's provisions until January 1, 2016.

H.B. 1670 amends current law relating to the possession and removal of a placenta from a hospital or birthing center.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Texas Department of State Health Services, as the successor agency to TDH.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle H, Title 2, Health and Safety Code, by adding Chapter 172, as follows:

CHAPTER 172. REMOVAL OF PLACENTA FROM HOSPITAL OR BIRTHING CENTER

Sec. 172.001. DEFINITIONS. Defines "birthing center" and "hospital."

Sec. 172.002. REMOVAL OF PLACENTA FROM HOSPITAL OR BIRTHING CENTER. (a) Requires a hospital or birthing center without a court order, except for the portion of a delivered placenta that is necessary for an examination described by Subsection (d), to allow a woman who has given birth in the facility, or a spouse of the woman if the woman is incapacitated or deceased, to take possession of and remove from the facility the placenta if:

(1) the woman tests negative for infectious diseases as evidenced by the results of the diagnostic testing required by Section 81.090 (Diagnostic Testing During Pregnancy and After Birth); and

(2) the person taking possession of the placenta signs a form prescribed by the Texas Department of Health (TDH) acknowledging that:

(A) the person has received from the hospital or birthing center educational information prescribed by TDH concerning the spread of blood-borne diseases from placentas, the danger of ingesting formalin, and the proper handling of placentas; and

(B) the placenta is for personal use.

(b) Authorizes a person removing a placenta from a hospital or birthing center under this section to only retain the placenta for personal use and prohibits the person from selling the placenta.

(c) Requires a hospital or birthing center to retain a signed form received under Subsection (a) with the woman's medical records.

(d) Provides that this section does not prohibit a pathological examination of the delivered placenta that is ordered by a physician or required by a policy of the hospital or birthing center.

(e) Provides that this section does not authorize a woman or the woman's spouse to interfere with a pathological examination of the delivered placenta that is ordered by a physician or required by a policy of the hospital or birthing center.

(f) Provides that a hospital or birthing center that allows a person to take possession of and remove from the facility a delivered placenta in compliance with this section is not required to dispose of the placenta as medical waste.

(g) Provides that a hospital or birthing center that acts in accordance with this section is not liable for the act in a civil action, a criminal prosecution, or an administrative proceeding.

Sec. 172.003. DEPARTMENT DUTIES. Requires TDH to develop the form and the educational information required under Section 172.002 and post a copy of the form and information on TDH's Internet website.

SECTION 2. (a) Requires the executive commissioner of the Health and Human Services Commission, not later than December 1, 2015, to adopt the rules necessary to implement Chapter 172, Health and Safety Code, as added by this Act.

(b) Provides that, notwithstanding Section 172.002, Health and Safety Code, as added by this Act, a hospital or birthing facility is not required to comply with that section until January 1, 2016.

SECTION 3. Effective date: upon passage or September 1, 2015.