

## **BILL ANALYSIS**

Senate Research Center

S.B. 748  
By: Kolkhorst  
Health & Human Services  
6/25/2019  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The highest volume area of the Department of State Health Services (DSHS) public health laboratory is newborn screenings. The lab tests 400,000 infants per year for 53 disorders or medical conditions. Chapter 33, Health and Safety Code, requires DSHS to follow the Recommended Uniform Screening Panel of the Secretary's Advisory Committee on Heritable Disorders in Newborns and Children as state funding allows. The federal screening panel currently recommends 61 core and secondary disorders. There is currently a gap in funding to maintain current laboratory testing, much less expand to the federally recommended screenings.

In addition, the lab is in disrepair and needs equipment upgrades, maintenance improvements, and enhancements to continue screenings at current levels.

S.B. 748 would create a dedicated account for newborn screenings to establish a consistent and long-term funding stream to repair, upgrade, and expand screenings conducted by the lab. (Original Author's/Sponsor's Statement of Intent)

S.B. 748 amends current law relating to maternal and newborn health care, including the newborn screening preservation account.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) in SECTION 3, SECTION 6 (Section 1001.262, Health and Safety Code), and SECTION 8 (Section 531.0996, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the executive commissioner is modified in SECTION 1 (Section 33.004, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 33.004(f), Health and Safety Code, as follows:

(f) Requires, rather than authorizes, the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) by rule to establish the amounts charged for newborn screening fees, including fees assessed for follow-up services, tracking confirmatory testing, and diagnosis. Requires the executive commissioner, in adopting rules under this subsection, to ensure that amounts charged for newborn screening fees are sufficient to cover the costs of performing the screening.

SECTION 2. Amends Chapter 33, Health and Safety Code, by adding Subchapter D, as follows:

#### **SUBCHAPTER D. NEWBORN SCREENING PRESERVATION ACCOUNT**

Sec. 33.051. DEFINITION. Defines "account" for purposes of this subchapter.

Sec. 33.052. CREATION OF ACCOUNT. (a) Provides that the newborn screening preservation account is a dedicated account in the general revenue fund. Authorizes

money in the account to be appropriated only to the Department of State Health Services (DSHS) and only for the purpose of carrying out the newborn screening program established under this chapter (Phenylketonuria, Other Heritable Diseases, Hypothyroidism, and Certain Other Diseases).

(b) Requires the comptroller of public accounts of the State of Texas, on November 1 of each year, to transfer to the account any unexpended and unencumbered money from Medicaid reimbursements collected by DSHS for newborn screening services during the preceding state fiscal year.

(c) Provides that the account is composed of money transferred to the account under Subsection (b), gifts, grants, donations, and legislative appropriations, and interest earned on the investment of money in the account.

(d) Provides that Section 403.0956 (Reallocation of Interest Accrued on Certain Dedicated Revenue), Government Code, does not apply to the account.

(e) Provides that DSHS administers the account. Authorizes DSHS to solicit and receive gifts, grants, and donations from any source for the benefit of the account.

Sec. 33.053. DEDICATED USE. (a) Authorizes DSHS to use any money remaining in the account after paying the costs of operating the newborn screening program established under this chapter only to pay the costs of offering additional newborn screening tests not offered under this chapter before September 1, 2019, including the operational costs incurred during the first year of implementing the additional tests, and to pay for capital assets, equipment, and renovations for the laboratory established by DSHS to ensure the continuous operation of the newborn screening program.

(b) Prohibits DSHS from using money from the account for general operating expenses of DSHS.

Sec. 33.054. REPORT. Requires DSHS, if DSHS requires an additional newborn screening test under Subchapter B (Newborn Screening) the costs of which are funded with money appropriated from the newborn screening preservation account, not later than September 1 of each even-numbered year, to prepare and submit to the governor, the lieutenant governor, the speaker of the house of representatives, and each standing committee of the legislature having primary jurisdiction over DSHS a written report that:

(1) summarizes the implementation plan for the test, including anticipated completion dates for implementing the test and potential barriers to conducting the test; and

(2) summarizes the actions taken by DSHS to fund and implement the test during the preceding two years.

SECTION 3. Amends Chapter 34, Health and Safety Code, by adding Sections 34.0158 and 34.0159, as follows:

Sec. 34.0158. REPORT ON ACTIONS TO ADDRESS MATERNAL MORTALITY RATES. Requires HHSC, not later than December 1 of each even-numbered year, to submit to the governor, the lieutenant governor, the speaker of the house of representatives, the Legislative Budget Board, and the appropriate standing committees of the legislature a written report summarizing the actions taken to address maternal morbidity and reduce maternal mortality rates. Requires the report to include information from certain programs and initiatives created to address maternal morbidity and reduce maternal mortality rates in this state.

Sec. 34.0159. PROGRAM EVALUATIONS. Requires HHSC, in collaboration with the Maternal Mortality and Morbidity Task Force (task force) and other interested parties, to:

- (1) explore options for expanding the pilot program for pregnancy medical homes established under Section 531.0996, Government Code;
- (2) explore methods for increasing the benefits provided under Medicaid, including specialty care and prescriptions, for women at greater risk of a high-risk pregnancy or premature delivery;
- (3) evaluate the impact of supplemental payments made to obstetrics providers for pregnancy risk assessments on increasing access to maternal health services;
- (4) evaluate a waiver to fund managed care organization payments for case management and care coordination services for women at high risk of severe maternal morbidity on conclusion of their eligibility for Medicaid;
- (5) evaluate the average time required for pregnant women to complete the Medicaid enrollment process;
- (6) evaluate the use of Medicare codes for Medicaid care coordination;
- (7) study the impact of programs funded from the Teen Pregnancy Prevention Program federal grant and evaluate whether the state should continue funding the programs; and
- (8) evaluate the use of telemedicine medical services for women during pregnancy and the postpartum period.

SECTION 4. Amends Chapter 34, Health and Safety Code, by adding Sections 34.019, 34.020, and 34.021, as follows:

Sec. 34.019. DATA COLLECTION. Requires the task force, under the direction of DSHS, to annually collect information relating to maternity care and postpartum depression in this state. Requires the information to be based on statistics for the preceding year and include certain information.

Sec. 34.020. PROGRAM TO DELIVER PRENATAL AND POSTPARTUM CARE THROUGH TELEHEALTH OR TELEMEDICINE MEDICAL SERVICES IN CERTAIN COUNTIES. (a) Defines "postpartum care," "prenatal care," "telehealth service," and "telemedicine medical service" for purposes of this section.

(b) Requires HHSC, in consultation with the task force, to develop a program to deliver prenatal and postpartum care through telehealth services or telemedicine medical services to pregnant women with a low risk of experiencing pregnancy-related complications, as determined by a physician. Requires HHSC to implement the program in:

- (1) at least two counties with populations of more than two million;
- (2) at least one county with a population of more than 100,000 and less than 500,000; and
- (3) at least one rural county with high rates of maternal mortality and morbidity as determined by HHSC in consultation with the task force.

(c) Requires HHSC to develop criteria for selecting participants for the program by analyzing information in the reports prepared by the task force under this chapter (Maternal Mortality and Morbidity Task Force) and the outcomes of the study conducted under Section 531.02163, Government Code.

(d) Requires HHSC, in developing and administering the program, to endeavor to use innovative, durable medical equipment to monitor fetal and maternal health.

(e) Authorizes HHSC, notwithstanding Section 531.02176 (Expiration of Medicaid Reimbursement For Provision of Home Telemonitoring Services), Government Code, and if HHSC determines it is feasible and cost-effective, to:

(1) provide home telemonitoring services and necessary durable medical equipment to women participating in the program to the extent HHSC anticipates the services and equipment will reduce unnecessary emergency room visits or hospitalizations; and

(2) reimburse providers under Medicaid for the provision of home telemonitoring services and durable medical equipment under the program.

(f) Requires HHSC, not later than January 1, 2021, to submit to the legislature a report on the program that evaluates the program's success in delivering prenatal and postpartum care through telehealth services or telemedicine medical services under Subsection (b).

Sec. 34.021. APPLICATION FOR FEDERAL GRANTS. (a) Requires the executive commissioner to apply to the United States Department of Health and Human Services for grants under the federal Preventing Maternal Deaths Act of 2018 (Pub. L. No. 115–344).

(b) Provides that this section expires September 1, 2027.

SECTION 5. Amends Section 81.090(c), Health and Safety Code, to require a physician or other person in attendance at a delivery to take or cause to be taken a sample of blood or other appropriate specimen from the mother on admission for delivery and submit the sample to an appropriately certified laboratory for diagnostic testing approved by the United States Food and Drug Administration for hepatitis B infection and syphilis, rather than for hepatitis B infection.

SECTION 6. Amends Chapter 1001, Health and Safety Code, by adding Subchapter K, as follows:

#### SUBCHAPTER K. HIGH-RISK MATERNAL CARE COORDINATION SERVICES PILOT PROGRAM

Sec. 1001.261. DEFINITIONS. Defines "pilot program," "promotora," and "community health worker" for purposes of this subchapter.

Sec. 1001.262. ESTABLISHMENT OF PILOT PROGRAM; RULES. (a) Requires DSHS to develop and implement a high-risk maternal care coordination services pilot program in one or more geographic areas in this state.

(b) Requires DSHS, in implementing the pilot program, to:

(1) conduct a statewide assessment of training courses provided by promotoras or community health workers that target women of childbearing age;

(2) study existing models of high-risk maternal care coordination services;

(3) identify, adapt, or create a risk assessment tool to identify pregnant women who are at a higher risk for poor pregnancy, birth, or postpartum outcomes; and

(4) create educational materials for promotoras and community health workers that include information on the:

(A) assessment tool described by Subdivision (3); and

(B) best practices for high-risk maternal care.

(c) Requires the executive commissioner to adopt rules as necessary to implement this subchapter and prescribe the types of information to be collected during the course of the pilot program and included in the report described by Section 1001.264.

Sec. 1001.263. DUTIES OF DEPARTMENT. (a) Requires DSHS to provide to each geographic area selected for the pilot program the support, resources, technical assistance, training, and guidance necessary to:

(1) screen all or a sample of pregnant patients with the assessment tool described by Section 1001.262(b)(3); and

(2) integrate community health worker services for women with high-risk pregnancies in:

(A) providing patient education on health-enhancing behaviors and chronic disease management and prevention;

(B) facilitating care coordination and navigation activities; and

(C) identifying and reducing barriers to the women's access to health care.

(b) Requires DSHS to develop training courses to prepare promotoras and community health workers in educating and supporting women at high risk for serious complications during the pregnancy and postpartum periods.

Sec. 1001.264. PILOT PROGRAM REPORT. (a) Requires DSHS, not later than December 1 of each even-numbered year, to prepare and submit a report on the pilot program to the executive commissioner and the chairs of the standing committees of the senate and the house of representatives with primary jurisdiction over public health and human services. Authorizes the report to be submitted with the report required under Section 34.0156 (Maternal Health and Safety Initiative).

(b) Requires the report submitted under this section to include an evaluation from the commissioner of DSHS of the pilot program's effectiveness.

(c) Requires the report submitted under this section to include a recommendation from DSHS on whether the pilot program should continue, be expanded, or be terminated.

Sec. 1001.265. EXPIRATION. Provides that this subchapter expires September 1, 2023.

SECTION 7. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.02163, as follows:

Sec. 531.02163. STUDY ON PROVIDING CERTAIN MATERNAL CARE MEDICAID SERVICES THROUGH TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH SERVICES. (a) Requires HHSC, not later than September 1, 2020, to conduct a study on the benefits and costs of permitting reimbursement under Medicaid for prenatal and postpartum care delivered through telemedicine medical services and telehealth services.

(b) Provides that this section expires September 1, 2021.

SECTION 8. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.0996, as follows:

Sec. 531.0996. PREGNANCY MEDICAL HOME PILOT PROGRAM. (a) Requires HHSC to develop a pilot program to establish pregnancy medical homes that provide coordinated evidence-based maternity care management to women who reside in a pilot program area and are recipients of Medicaid through a Medicaid managed care model or arrangement under Chapter 533 (Medicaid Managed Care Program). Requires HHSC to implement the pilot program in:

- (1) at least two counties with populations of more than two million;
- (2) at least one county with a population of more than 100,000 and less than 500,000; and
- (3) at least one rural county with high rates of maternal mortality and morbidity as determined by HHSC in consultation with the task force established under Chapter 34, Health and Safety Code.

(b) Requires HHSC, in implementing the pilot program, to ensure each pregnancy medical home provides a maternity management team that:

- (1) consists of health care providers, including obstetricians, gynecologists, family physicians, physician assistants, certified nurse midwives, nurse practitioners, and social workers, who provide health care services at the same location;
- (2) conducts a risk assessment of each pilot program participant on her entry into the program to determine the risk classification for her pregnancy;
- (3) based on the assessment conducted under Subdivision (2), establishes an individual pregnancy care plan for each participant; and
- (4) follows each participant throughout her pregnancy to reduce poor birth outcomes.

(c) Authorizes HHSC to incorporate as a component of the pilot program financial incentives for health care providers who participate in a maternity management team.

(d) Authorizes HHSC to waive a requirement of this section for a pregnancy medical home located in a rural county.

(e) Authorizes HHSC, notwithstanding Section 531.02176, to:

- (1) provide home telemonitoring services and necessary durable medical equipment to pilot program participants who are at risk of experiencing pregnancy-related complications, as determined by a physician, to the extent HHSC anticipates the services and equipment will reduce unnecessary emergency room visits or hospitalizations; and
- (2) reimburse providers under Medicaid for the provision of home telemonitoring services and durable medical equipment under the pilot program.

(f) Requires HHSC, not later than January 1, 2021, to submit to the legislature a report on the pilot program. Requires the report to include:

(1) an evaluation of the pilot program's success in reducing poor birth outcomes; and

(2) a recommendation on whether the pilot program should continue, be expanded, or be terminated.

(g) Authorizes the executive commissioner to adopt rules to implement this section.

(h) Provides that this section expires September 1, 2023.

SECTION 9. Requires DSHS, notwithstanding Section 33.054, Health and Safety Code, as added by this Act, to submit the first report required by that section not later than December 1, 2019.

SECTION 10. Provides that, notwithstanding Subchapter K, Chapter 1001, Health and Safety Code, as added by this Act, DSHS and the executive commissioner are not required to comply with that subchapter unless a specific appropriation for the implementation of the subchapter is provided in a general appropriations act of the 86th Legislature.

SECTION 11. Requires the executive commissioner, as soon as practicable after the effective date of this Act, to apply to the United States Department of Health and Human Services for grants as required by Section 34.021, Health and Safety Code, as added by this Act.

SECTION 12. Requires a state agency affected by any provision of this Act, if before implementing the provision the state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, to request the waiver or authorization and authorizes the agency to delay implementing that provision until the waiver or authorization is granted.

SECTION 13. Requires the executive commissioner, as soon as practicable after the effective date of this Act, to adopt rules as necessary to implement the changes in law made by this Act.

SECTION 14. Effective date: September 1, 2019.