

BILL ANALYSIS

S.B. 1404
By: Powell
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been suggested that electronic capture and storage of parental consent relating to the newborn screening program overseen by the Department of State Health Services (DSHS) could provide a streamlined and secure method for hospitals and public health officials to record and access parental consent. S.B. 1404 seeks to address this issue by requiring DSHS to create a process to allow a parent or guardian of a newborn to electronically provide consent to the disclosure of certain information relating to newborn and infant screening tests and to determine the manner of storing electronic consent records.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

S.B. 1404 amends the Health and Safety Code to require the Department of State Health Services (DSHS) to create a process to do the following:

- permit the parent, managing conservator, or guardian of a newborn child to provide consent required for the disclosure of certain information relating to newborn and infant screening for phenylketonuria, other heritable diseases, hypothyroidism, and certain other disorders through electronic means, including through audio or video recording;
- permit the parent of a newborn or infant to provide consent required for the disclosure of certain information relating to newborn hearing loss through electronic means, including through audio or video recording;
- determine the manner of storing electronic consent records; and
- ensure the newborn child's or infant's attending physician has access to the electronic consent records for the newborn or infant.

The bill authorizes a request for such consent to be submitted to the parent, managing conservator, or guardian of a newborn or infant, as applicable, through written or electronic means, including through audio or visual recording. The bill establishes that a birthing facility or person required to obtain such consent is not required to use the process created by DSHS to obtain the consent.

S.B. 1404 authorizes DSHS to provide an applicable disclosure statement in various formats and languages to ensure clear communication of information on the applicable screening test and

requires the applicable attending physician or person to provide a copy of an electronic disclosure statement to the parent, managing conservator, or guardian of the newborn child at the time the child is subjected to the applicable screening test.

S.B. 1404 includes electronic consent in the scope of provisions requiring certain parental consent regarding newborn hearing screening before the release of information individually identifying a newborn or infant and requiring the executive commissioner of the Health and Human Services Commission to develop guidelines for parental or guardian consent before individually identifying information is provided to DSHS with respect to such screening.

S.B. 1404 establishes that DSHS is required to implement a provision of the bill only if the legislature appropriates money specifically for that purpose and if not, that DSHS may, but is not required to, implement such a provision using other appropriations available for that purpose.

EFFECTIVE DATE

September 1, 2019.