

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1404  
By: Powell  
Health & Human Services  
4/29/2019  
Committee Report (Substituted)

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

The Department of State Health Services and its state laboratory oversees the state's newborn screening program, which screens babies born in the state twice for 53 conditions, hearing, and congenital heart disease for early diagnoses and preventative care.

The bill amends Chapters 47 and 33 of the Health and Safety Code to permit electronic capture and storage of parental consent for the Texas Newborn Hearing, Screening, Tracking, and Intervention Program. Electronic capture can provide a streamlined and secure method for hospitals and public health officials to record and access parental consent. The language also allows facilities, other providers, or the insurer to capture consent prior to admission in order to give parents this important information earlier and in a potentially less stressful environment than the labor and delivery room. The bill is intended to be permissive, and does not require facilities to implement an electronic system. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1404 amends current law relating to consent to the disclosure of certain information and to other matters relating to newborn and infant screening tests.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 4 (Section 47.008, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 33, Health and Safety Code, by adding Section 33.005, as follows:

Sec. 33.005. CONSENT. (a) Requires the Department of State Health Services (DSHS) to create a process to permit the parent, managing conservator, or guardian of a newborn child to provide the consent required under this chapter (Phenylketonuria, Other Heritable Diseases, Hypothyroidism, and Certain Other Disorders) through electronic means, including through audio or video recording, determine the manner of storing electronic consent records, and ensure the newborn child's attending physician has access to the electronic consent records for the child.

(b) Authorizes a request for consent required by this chapter to be submitted to the parent, managing conservator, or guardian of a newborn child through written or electronic means, including through audio or visual recording.

(c) Provides that a birthing facility or person required to obtain consent under this chapter is not required to use the process created by DSHS under this section to obtain the consent.

SECTION 2. Amends Section 33.0111, Health and Safety Code, by adding Subsection (b-1) and amending Subsection (c), as follows;

(b-1) Authorizes DSHS to provide the disclosure statement required by Subsection (a) (relating to requiring DSHS to develop a disclosure statement that clearly discloses certain information to a parent, managing conservator, or guardian of a newborn child subjected to certain tests) in various formats and languages to ensure clear communication of information on the screening test required under this chapter.

(c) Requires the physician attending a newborn child or person attending the delivery of a newborn child that is not attended by a physician, at the time a newborn child is subjected to screening tests under Section 33.011 (Test Requirement), to provide the parent, managing conservator, or guardian of a newborn child a copy of the written or electronic disclosure statement, rather than a copy of the written disclosure statement, developed by DSHS under this section.

SECTION 3. Amends Section 47.007(g), Health and Safety Code, to require DSHS to ensure that the written or electronic consent, rather than written consent, of a parent is obtained before certain information is released.

SECTION 4. Amends Section 47.008(c), Health and Safety Code, to require the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule to develop guidelines to require the written or electronic consent, rather than written consent, of a parent or guardian of a patient before any individually identifying information is provided to DSHS as set out in this chapter (Hearing Loss in Newborns).

SECTION 5. Amends Chapter 47, Health and Safety Code, by adding Section 47.0085, as follows:

Sec. 47.0085. CONSENT. (a) Requires DSHS to create a process to permit the parent of a newborn or infant to provide the consent required under this chapter through electronic means, including through audio or video recording, determine the manner of storing electronic consent records, and ensure the newborn's or infant's attending physician has access to the electronic consent records for the newborn or infant.

(b) Authorizes a request for consent required by this chapter to be submitted to the parent or guardian of a newborn or infant through written or electronic means, including through audio or visual recording.

(c) Provides that a birthing facility or person required to obtain consent under this chapter is not required to use the process created by DSHS under this section to obtain the consent.

SECTION 6. Provides that DSHS is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Authorizes, but does not require, DSHS, if the legislature does not appropriate money specifically for that purpose, to implement a provision of this Act using other appropriations available for that purpose.

SECTION 7. Effective date: September 1, 2019.