S.B. No. 1404

AN ACT

relating to consent to the disclosure of certain information and to other matters relating to newborn and infant screening tests.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subchapter A, Chapter 33, Health and Safety Code, is amended by adding Section 33.005 to read as follows:

Sec. 33.005.  CONSENT. (a)  The department shall create a process to:

(1)  permit the parent, managing conservator, or guardian of a newborn child to provide the consent required under this chapter through electronic means, including through audio or video recording;

(2)  determine the manner of storing electronic consent records; and

(3)  ensure the newborn child's attending physician has access to the electronic consent records for the child.

(b)  A request for consent required by this chapter may 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)  A birthing facility or person required to obtain consent under this chapter is not required to use the process created by the department under this section to obtain the consent.

SECTION 2.  Section 33.0111, Health and Safety Code, is amended by adding Subsection (b-1) and amending Subsection (c) to read as follows:

(b-1)  The department may provide the disclosure statement required by Subsection (a) in various formats and languages to ensure clear communication of information on the screening test required under this chapter.

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

SECTION 3.  Section 47.007(g), Health and Safety Code, is amended to read as follows:

(g)  The department shall ensure that the written or electronic consent of a parent is obtained before any information individually identifying the newborn or infant is released through the information management, reporting, and tracking system.

SECTION 4.  Section 47.008(c), Health and Safety Code, is amended to read as follows:

(c)  The executive commissioner by rule shall develop guidelines to protect the confidentiality of patients in accordance with Chapter 159, Occupations Code, and require the written or electronic consent of a parent or guardian of a patient before any individually identifying information is provided to the department as set out in this chapter.  The department shall permit a parent or guardian at any time to withdraw information provided to the department under this chapter.

SECTION 5.  Chapter 47, Health and Safety Code, is amended by adding Section 47.0085 to read as follows:

Sec. 47.0085.  CONSENT. (a)  The department shall create a process to:

(1)  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;

(2)  determine the manner of storing electronic consent records; and

(3)  ensure the newborn's or infant's attending physician has access to the electronic consent records for the newborn or infant.

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

(c)  A birthing facility or person required to obtain consent under this chapter is not required to use the process created by the department under this section to obtain the consent.

SECTION 6.  The Department of State Health Services is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the department may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

SECTION 7.  This Act takes effect September 1, 2019.

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I hereby certify that S.B. No. 1404 passed the Senate on May 7, 2019, by the following vote:  Yeas 30, Nays 1.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 1404 passed the House on May 22, 2019, by the following vote:  Yeas 144, Nays 1, one present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor