

## **BILL ANALYSIS**

H.B. 2566  
By: Darby  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Legislation was recently passed to help better inform parents of newborns and infants who do not pass hearing screenings about certain resources available to them and to increase the utilization of follow-up services for those who are screened by a certified newborn hearing screening, tracking, and intervention program. There have been calls to further clarify the law relating to newborn hearing loss, including the parental consent components of the program, and to provide for a more simplified disclosure process regarding the results of a newborn's or infant's hearing screening under the program.

H.B. 2566 seeks to make those clarifications regarding parental or guardian consent, implement a more simplified disclosure statement for parents or guardians of those newborns or infants, and address certain ambiguities in the law pertaining to speech-language pathologists and audiologists that provide screening or diagnostic services to newborns or infants.

### **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 rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 of this bill and to the Texas Commission of Licensing and Regulation in SECTION 6 of this bill.

### **ANALYSIS**

H.B. 2566 amends the Health and Safety Code to clarify that a hospital that provides services relating to newborn hearing loss is required to report to the Department of State Health Services (DSHS) or its designee the results of all follow-up services for an infant who is screened by a certified newborn hearing screening, tracking, and intervention program if the hospital provides the follow-up services.

H.B. 2566, in revising the statutory provisions requiring the executive commissioner of the Health and Human Services Commission (HHSC) to develop guidelines for parental or guardian consent, does the following:

- removes written electronic consent from the scope of the provisions requiring such consent before any individually identifying information is provided to DSHS with respect to newborn hearing screening;
- requires the patient's parent or guardian instead to consent once in accordance with the bill's provisions before individually identifying information is disclosed for purposes of the revised provisions relating to hearing loss in newborns; and

- clarifies that the Texas School for the Deaf must permit a parent or guardian at any time to withdraw information provided to the school under the revised provisions.

If such consent required for disclosure of information is obtained, a follow-up provider is not required to obtain additional consent of the patient's parent or guardian before providing or obtaining screening results, follow-up care results, or other information related to the patient.

H.B. 2566 requires DSHS to create a disclosure statement for parents or guardians of newborns or infants under the newborn hearing screening, tracking, and intervention program disclosing that, as follows:

- the results of a newborn's or infant's screening may be shared with the Texas School for the Deaf and early childhood intervention services;
- a written or electronic consent of the parent or guardian must be obtained once in accordance with these provisions relating to disclosure and consent before information individually identifying a newborn or infant patient is disclosed for purposes of provisions relating to hearing loss in newborns; and
- the parent's or guardian's consent may be revoked at any time as provided by the bill.

The bill requires the commissioner of state health services to create the disclosure statement as soon as practicable after the bill's effective date.

H.B. 2566 revises the provisions that require DSHS to permit consent through electronic means, determine the manner of storing electronic consent records, and ensure access to the records by the attending physician. The bill provides that this process must also do the following:

- require a birthing facility during a birth admission to review with a newborn's parent the disclosure statement, obtain the required written or electronic consent of the parent once, and, if the newborn's parent provides the consent, document the consent in the information management, reporting, and tracking system;
- if the consent of a newborn's parent is not obtained, allow a follow-up provider of services to the newborn or infant to obtain the consent;
- ensure the consent status of the parent or guardian of a patient is clearly indicated to follow-up providers accessing the information management, reporting, and tracking system; and
- allow a parent or guardian of a newborn or infant to revoke, at any time, the parent's or guardian's required consent for disclosure of information.

H.B. 2566 amends the Occupations Code to require an audiologist or a speech-language pathologist that provides screening or diagnostic services to newborns or infants to follow the protocols for referrals and reporting as required by provisions relating to hearing loss in newborns and HHSC rules. The bill provides the following:

- the Texas Commission of Licensing and Regulation (TCLR), with the assistance of the Speech-Language Pathologists and Audiologists Advisory Board, must adopt rules to establish requirements for referrals and reporting regarding newborn or infant hearing screenings or diagnostic services for purposes of those provisions; and
- TCLR, in adopting those rules, must consult with DSHS or the executive commissioner of HHSC as necessary.

**EFFECTIVE DATE**

September 1, 2021.