

BILL ANALYSIS

C.S.H.B. 37
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to a report from the National Institutes of Health, approximately 26,000 babies in the U.S. are lost to stillbirth each year, with Count the Kicks reporting that on average 1,562 babies are similarly lost in Texas each year. While these numbers reflect the heartbreaking loss of life, they cannot fully convey the silent suffering of parents, siblings, extended family, medical professionals, and hospital staff who must navigate these devastating moments. The bill author has informed the committee that despite the magnitude of stillbirth and neonatal loss, Texas lacks a standardized system for perinatal bereavement care, leaving families without the care and resources they desperately need to cope with their loss, compounding their grief. C.S.H.B. 37 aims to bridge this gap by creating a perinatal bereavement care initiative to fund perinatal bereavement devices, equip medical staff with proper training in bereavement care and protocols, and ensure hospitals are able to meet the unique needs of families going through these tragic experiences.

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 2 of this bill.

ANALYSIS

C.S.H.B. 37 amends the Health and Safety Code to require a licensed hospital assigned a maternal level of care designation, following an intrauterine fetal demise, neonatal death, or stillbirth, to make perinatal bereavement care counseling options and any available perinatal bereavement device available to the expectant parents and family members for a period equal to the length of stay recommended by a medical professional for a birth. The bill defines the following terms:

- "perinatal bereavement care" as the provision of supportive care for a prenatal diagnosis of a life-limiting fetal condition; and
- "perinatal bereavement device" as a device with technology capable of delaying for bereavement purposes the deterioration of human tissue for up to 72 hours following an intrauterine fetal demise, neonatal death, or stillbirth.

C.S.H.B. 37 requires the Department of State Health Services (DSHS) to establish and administer a perinatal bereavement care initiative to improve access to and quality of perinatal bereavement care in Texas. The bill authorizes DSHS, under the initiative, to provide to such hospitals the following resources for the hospital's provision of perinatal bereavement care:

- for hospital personnel who provide maternal care, training on interacting with parents and family members in a considerate and respectful manner following an intrauterine fetal demise, neonatal death, or stillbirth;
- a perinatal bereavement device, including the following:
 - training for personnel on the use of the device; and
 - support to maintain the device; and
- any other resources necessary for providing perinatal bereavement care.

The bill requires DSHS, in providing those resources, to prioritize hospitals that lack access to a perinatal bereavement device, treat a greater number of high-risk maternal patients, and deliver a greater number of babies.

C.S.H.B. 37 authorizes DSHS, as appropriate and using money appropriated or otherwise available for that purpose, to award grants under the initiative to licensed hospitals assigned a maternal level of care designation to increase access to perinatal bereavement care resources. The bill authorizes DSHS to accept gifts, grants, and donations from any source for the purposes of the initiative.

C.S.H.B. 37 requires the executive commissioner of the Health and Human Services Commission (HHSC), in collaboration with the Perinatal Advisory Council, to develop and implement a program to recognize licensed hospitals assigned a maternal level of care designation that provide perinatal bereavement care training to hospital personnel and to adopt criteria for awarding such recognition to a hospital under the recognition program.

C.S.H.B. 37 authorizes the executive commissioner of HHSC, as soon as practicable after the bill's effective date, to adopt the rules necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 37 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Both the introduced and the substitute require a licensed hospital assigned a maternal level of care designation to make available to expectant parents and family members certain counseling and a certain perinatal device, but differ in the following ways:

- the substitute makes the requirement applicable following an intrauterine fetal demise, neonatal death, or stillbirth, whereas in the introduced, the requirement was applicable only following a perinatal death or stillbirth;
- the substitute requires the care and device to be made available for a period equal to the length of stay recommended by a medical professional for a birth, which the introduced did not require;
- with respect to the counseling, the substitute requires perinatal bereavement care counseling options to be made available, whereas the introduced required perinatal palliative care counseling to be made available; and
- with respect to the device, the substitute requires any available perinatal bereavement device to be made available, whereas the introduced required a perinatal palliative care cooling device to be made available.

Accordingly, the substitute omits definitions and references present in the introduced for the terms "perinatal palliative care" and "perinatal palliative care cooling device" and includes definitions and references absent from the introduced for the terms "perinatal bereavement care" and "perinatal bereavement device." Whereas the introduced included definitions for the terms "commission" and "grant program," the substitute omits these definitions. Whereas the

substitute includes definitions for the terms "department" and "initiative," the introduced did not include these definitions.

The substitute replaces the introduced version's requirement for the executive commissioner of HHSC by rule to establish a perinatal palliative care grant program administered by HHSC with a requirement for DSHS to establish and administer a perinatal bereavement care initiative. The introduced restricted the uses of money awarded to a hospital under the grant program for the reasonable costs, as determined by HHSC rule, of the following:

- training hospital personnel who provide maternal care on interacting with parents and family members in a considerate and respectful manner following a perinatal death or stillbirth; and
- obtaining and maintaining a perinatal palliative care cooling device and training personnel on use of the device.

The substitute instead authorizes DSHS to provide to hospitals assigned a maternal level of care designation the following resources for the hospital's provision of perinatal bereavement care:

- for hospital personnel who provide maternal care, training on interacting with parents and family members in a considerate and respectful manner following an intrauterine fetal demise, neonatal death, or stillbirth;
- a perinatal bereavement device, including training for personnel on the use of the device and support to maintain the device; and
- any other resources necessary for providing perinatal bereavement care.

The substitute replaces the introduced version's requirement for the executive commissioner by rule to establish eligibility criteria and a scoring system for awarding grants under the grant program with a requirement for DSHS, in providing resources under the initiative, to prioritize hospitals that lack access to a perinatal bereavement device, treat a greater number of high-risk maternal patients, and deliver a greater number of babies. Both the substitute and the introduced authorize the awarding of grants to hospitals assigned a maternal level of care designation but differ in the following ways:

- the introduced authorized HHSC to award grants to those hospitals for the hospital's provision of perinatal palliative care; and
- the substitute authorizes DSHS, as appropriate and using money appropriated or otherwise available for that purpose, to award grants under the initiative to those hospitals to increase access to perinatal bereavement care resources.

Both the introduced and the substitute require the executive commissioner to develop and implement a hospital recognition program. However, the introduced required the executive commissioner to do so by rule and in collaboration with the Palliative Care Interdisciplinary Advisory Council, whereas the substitute requires the executive commissioner to do so in collaboration with the Perinatal Advisory Council.

With respect to the rulemaking authority granted to the executive commissioner of HHSC in both the introduced and the substitute, the introduced required the executive commissioner to adopt rules to implement the bill's provisions, whereas the substitute authorizes the executive commissioner to adopt rules as necessary to do so.