

By: Deuell

S.B. No. 2421

A BILL TO BE ENTITLED

AN ACT

relating to the confidentiality of newborn screening information.

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

SECTION 1. Subchapter B, Chapter 33, Health and Safety Code, is amended by adding Section 33.017 to read as follows:

Sec. 33.017. CONFIDENTIALITY. (a) Reports, records, and information obtained or developed by the department under this chapter are confidential and are not subject to disclosure under Chapter 552, Government Code, are not subject to subpoena, and may not otherwise be released or made public except as provided by this section.

(b) Notwithstanding other law, reports, records, and information obtained or developed by the department under this chapter may be disclosed:

(1) for purposes of diagnosis or follow-up authorized under Section 33.014;

(2) with the consent of each identified individual or an individual authorized to consent on behalf of an identified child;

(3) as authorized by court order;

(4) to a medical examiner authorized to conduct an autopsy on a child or an inquest on the death of a child; or

(5) to public health programs of the department for public health research purposes provided that the disclosure is

1 approved by an institutional review board or privacy board of the
2 department as authorized by the federal privacy requirements
3 adopted under the Health Insurance Portability and Accountability
4 Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160
5 and 45 C.F.R. Part 164, Subparts A and E.

6 (c) Notwithstanding other law, reports, records, and
7 information that do not identify a child or the family of a child
8 may be released without consent if the disclosure is for:

9 (1) statistical purposes;

10 (2) purposes related to obtaining or maintaining
11 certification, approval, or quality assurance for the department's
12 laboratory or a public or private laboratory to perform newborn
13 screening tests;

14 (3) purposes relating to review, quality assurance, or
15 improvement of the department's newborn screening under this
16 subchapter or the department's newborn screening program services
17 under Subchapter C;

18 (4) research purposes, provided that the disclosure is
19 approved by an institutional review board or privacy board of the
20 department; or

21 (5) quality assurance related to equipment and
22 supplies, provided that:

23 (A) the assessment is performed by a person who
24 is not a laboratory;

25 (B) only newborn screening specimens are
26 disclosed; and

27 (C) the disclosure is approved by an

1 institutional review board or privacy board of the department.

2 (d) A state officer or employee, a department contractor, or
3 a department contractor's employee, officer, director, or
4 subcontractor may not be examined in a civil, criminal, special, or
5 other judicial or administrative proceeding as to the existence or
6 contents of records, reports, or information made confidential by
7 this section unless disclosure is authorized by this section.

8 SECTION 2. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2009.