

1-1 By: Powell S.B. No. 1404  
 1-2 (In the Senate - Filed March 1, 2019; March 14, 2019, read  
 1-3 first time and referred to Committee on Health & Human Services;  
 1-4 May 1, 2019, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; May 1, 2019,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1404 By: Perry

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to consent to the disclosure of certain information and to  
 1-22 other matters relating to newborn and infant screening tests.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter A, Chapter 33, Health and Safety  
 1-25 Code, is amended by adding Section 33.005 to read as follows:

1-26 Sec. 33.005. CONSENT. (a) The department shall create a  
 1-27 process to:

1-28 (1) permit the parent, managing conservator, or  
 1-29 guardian of a newborn child to provide the consent required under  
 1-30 this chapter through electronic means, including through audio or  
 1-31 video recording;

1-32 (2) determine the manner of storing electronic consent  
 1-33 records; and

1-34 (3) ensure the newborn child's attending physician has  
 1-35 access to the electronic consent records for the child.

1-36 (b) A request for consent required by this chapter may be  
 1-37 submitted to the parent, managing conservator, or guardian of a  
 1-38 newborn child through written or electronic means, including  
 1-39 through audio or visual recording.

1-40 (c) A birthing facility or person required to obtain consent  
 1-41 under this chapter is not required to use the process created by the  
 1-42 department under this section to obtain the consent.

1-43 SECTION 2. Section 33.0111, Health and Safety Code, is  
 1-44 amended by adding Subsection (b-1) and amending Subsection (c) to  
 1-45 read as follows:

1-46 (b-1) The department may provide the disclosure statement  
 1-47 required by Subsection (a) in various formats and languages to  
 1-48 ensure clear communication of information on the screening test  
 1-49 required under this chapter.

1-50 (c) At the time a newborn child is subjected to screening  
 1-51 tests under Section 33.011, the physician attending a newborn child  
 1-52 or the person attending the delivery of a newborn child that is not  
 1-53 attended by a physician shall provide the parent, managing  
 1-54 conservator, or guardian of a newborn child a copy of the written or  
 1-55 electronic disclosure statement developed by the department under  
 1-56 this section.

1-57 SECTION 3. Section 47.007(g), Health and Safety Code, is  
 1-58 amended to read as follows:

1-59 (g) The department shall ensure that the written or  
 1-60 electronic consent of a parent is obtained before any information

2-1 individually identifying the newborn or infant is released through  
2-2 the information management, reporting, and tracking system.

2-3 SECTION 4. Section 47.008(c), Health and Safety Code, is  
2-4 amended to read as follows:

2-5 (c) The executive commissioner by rule shall develop  
2-6 guidelines to protect the confidentiality of patients in accordance  
2-7 with Chapter 159, Occupations Code, and require the written or  
2-8 electronic consent of a parent or guardian of a patient before any  
2-9 individually identifying information is provided to the department  
2-10 as set out in this chapter. The department shall permit a parent or  
2-11 guardian at any time to withdraw information provided to the  
2-12 department under this chapter.

2-13 SECTION 5. Chapter 47, Health and Safety Code, is amended by  
2-14 adding Section 47.0085 to read as follows:

2-15 Sec. 47.0085. CONSENT. (a) The department shall create a  
2-16 process to:

2-17 (1) permit the parent of a newborn or infant to provide  
2-18 the consent required under this chapter through electronic means,  
2-19 including through audio or video recording;

2-20 (2) determine the manner of storing electronic consent  
2-21 records; and

2-22 (3) ensure the newborn's or infant's attending  
2-23 physician has access to the electronic consent records for the  
2-24 newborn or infant.

2-25 (b) A request for consent required by this chapter may be  
2-26 submitted to the parent or guardian of a newborn or infant through  
2-27 written or electronic means, including through audio or visual  
2-28 recording.

2-29 (c) A birthing facility or person required to obtain consent  
2-30 under this chapter is not required to use the process created by the  
2-31 department under this section to obtain the consent.

2-32 SECTION 6. The Department of State Health Services is  
2-33 required to implement a provision of this Act only if the  
2-34 legislature appropriates money specifically for that purpose. If  
2-35 the legislature does not appropriate money specifically for that  
2-36 purpose, the department may, but is not required to, implement a  
2-37 provision of this Act using other appropriations available for that  
2-38 purpose.

2-39 SECTION 7. This Act takes effect September 1, 2019.

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