

By: Crownover, Zerwas, Coleman, et al.

H.B. No. 1672

Substitute the following for H.B. No. 1672:

By: Gonzales

C.S.H.B. No. 1672

A BILL TO BE ENTITLED

AN ACT

relating to 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 Sections 33.0111 and 33.0112 to read as follows:

Sec. 33.0111. DISCLOSURE. (a) The department shall develop a disclosure statement that discloses to the parent, managing conservator, or guardian of a newborn child subjected to screening tests under Section 33.011 that:

(1) the department or a laboratory established or approved by the department under Section 33.016 may retain for use by the department or laboratory genetic material used to conduct the newborn screening tests; and

(2) the parent, managing conservator, or guardian may limit the use of the genetic material by providing to the department in accordance with Section 33.0112 a written statement prohibiting the department or laboratory from retaining the genetic material.

(b) 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 disclosure statement developed by the department under this

1 section.

2 Sec. 33.0112. STATEMENT PROHIBITING RETENTION OF GENETIC  
3 MATERIAL. (a) A parent, managing conservator, or guardian of a  
4 newborn child may file with the department a written statement  
5 prohibiting the department or a laboratory established or approved  
6 by the department from retaining any genetic material related to  
7 the newborn screening tests conducted under this subchapter.

8 (b) Not later than the 60th day after the department  
9 receives the written statement, the department or laboratory shall  
10 destroy the genetic material used in the screening tests.

11 SECTION 2. Subchapter B, Chapter 33, Health and Safety  
12 Code, is amended by adding Section 33.017 to read as follows:

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

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

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

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

27 (3) as authorized by court order;

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

3           (5) to public health programs of the department for  
4 public health research purposes provided that the disclosure is  
5 approved by an institutional review board or privacy board of the  
6 department as authorized by the federal privacy requirements  
7 adopted under the Health Insurance Portability and Accountability  
8 Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160  
9 and 45 C.F.R. Part 164, Subparts A and E.

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

13               (1) statistical purposes;

14               (2) purposes related to obtaining or maintaining  
15 certification, approval, or quality assurance for the department's  
16 laboratory or a public or private laboratory to perform newborn  
17 screening tests;

18               (3) purposes relating to review, quality assurance, or  
19 improvement of the department's newborn screening under this  
20 subchapter or the department's newborn screening program services  
21 under Subchapter C;

22               (4) research purposes, provided that the disclosure is  
23 approved by an institutional review board or privacy board of the  
24 department; or

25               (5) quality assurance related to equipment and  
26 supplies, provided that:

27                       (A) the assessment is performed by a person who

1 is not a laboratory;

2 (B) only newborn screening specimens are  
3 disclosed; and

4 (C) the disclosure is approved by an  
5 institutional review board or privacy board of the department.

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

12 SECTION 3. As soon as practicable after the effective date  
13 of this Act, the Department of State Health Services shall develop  
14 the disclosure statement required by Section 33.0111, Health and  
15 Safety Code, as added by this Act. The department may modify an  
16 existing form for use for purposes of that section.

17 SECTION 4. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2009.