

BILL ANALYSIS

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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, child fatality review teams across the state review all deaths of children from birth to age 18. A fetal and infant mortality review team (review team) would provide a better review process for fetal and infant death incidences. The review team would examine fetal and infant death cases (up to one year of age); the team would be composed of individuals from different disciplines. Removing identifying information on each case before review would allow the team to focus on the larger message - what health and social systems impacted the child's life (and the mother's life), and whether any deficiencies, flaws, or weaknesses in any of those systems contributed to or caused the death.

A key piece of this review process is a maternal interview, which is crucial to understanding a longer-term picture of the baby's development, mother's health care status and usage of prenatal health resources, interactions with existing community health systems, and other elements of day-to-day life that, in the end, may have contributed to the child's death. The review team would also review fetal deaths with an eye toward the systems that impacted the pregnancy loss, including those that may have played a part in the mother's health even before conception.

After information is gathered and reviewed, the trends that led to deaths are identified. This information allows a community action team (made up of health professionals, social services entities, day care regulators, public health, and many others) to recommend and develop strategies to improve the overall health and safety environment for infants and their mothers.

As proposed, S.B. 1183 removes barriers to allow communities to institute a review team without mandating the team. The primary purpose is to provide immunity from subpoena and discovery to review team participants in their review of the de-identified case material and to authorize access by the review team to medical records of fetal loss and to infant death records.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 8, Health and Safety Code, by adding Chapter 674, as follows:

CHAPTER 674. FETAL AND INFANT FATALITY REVIEW

Sec. 674.001. DEFINITIONS. Defines "decedent," "health care provider," "infant," "local health authority," "review," "review team," and "stillborn fetus."

Sec. 674.002. REVIEW TEAM. (a) Authorizes a fetal and infant mortality review team (review team) to be established only by certain health-related entities or under contract or in accordance with a memorandum of those entities.

(b) Authorizes the local authorities for two or more adjacent counties or municipalities to join to establish a joint review team.

(c) Requires a review team to be composed of culturally diverse members representing multiple disciplines, including professionals and representatives of agencies that provide services or community resources for families in the community and community representatives. Authorizes the team to include certain persons.

(d) Authorizes members of a review team to select additional members according to the resources of the review team and its needs.

(e) Requires the review team to select a presiding officer from its members.

Sec. 674.003. PURPOSE AND POWERS AND DUTIES OF REVIEW TEAM. (a) Provides that the purpose of a review team is to improve the health and well-being of women, infants, and families and to reduce racial disparities in the rates of and the overall rates of fetal and infant mortality.

(b) Requires the review team, for a death or fetal death subject to review, to collect certain information and records relating to the death of the decedent and other pertinent records related to the decedent and the mother of the decedent.

(c) Requires the identifying information relating to the decedent and the decedent's family, before review at a meeting of the review team, to be removed from information collected under Subsection (b) and requires a summary of the information to be prepared for consideration of the review team.

(d) Requires the review team to review certain information and recommend certain measures.

Sec. 674.004. GOVERNMENTAL UNIT. Provides that a review team is a governmental unit for purposes of Chapter 101 (Tort Claims), Civil Practice and Remedies Code. Provides that a review team is a unit of local government under this chapter.

Sec. 674.005. MEETINGS. (a) Provides that meetings of a review team are closed to the public and are not subject to Chapter 551 (Open Meetings), Government Code.

(b) Provides that a member of a review team participating in the review of a death or fetal death, and any person employed by or acting in an advisory capacity to the review team and who provides counsel or services to the review team, are immune from civil or criminal liability arising from information presented in a review team meeting or recommendations resulting from the meeting.

Sec. 674.006. DISCLOSURE OF INFORMATION TO REVIEW TEAM. (a) Authorizes a review team to request information regarding a decedent or the decedent's mother as necessary to carry out the review team's purpose and duties, including any information described by Section 674.003(b).

(b) Requires a health care provider or other custodian of the requested information to provide the information to the review team, on the request of the review team. Requires the information to be provided without the authorization of the decedent's parent, guardian, or other representative.

(c) Provides that a health care provider or other person who provides information to a review team is not subject to a civil action for damages or other relief as a result of having provided the information. Provides that this subsection does not apply if the information provided was false and the health care provider or other person knew or had reason to know that the information was false.

Sec. 674.007. CONFIDENTIALITY OF RECORDS; PRIVILEGE. (a) Provides that information is confidential for purposes of this chapter if the disclosure of the information would compromise the privacy of the decedent or the decedent's family.

Provides that confidential information includes any information pertaining to the fatality of the decedent.

(b) Provides that confidential information that is acquired by the review team that permits the identification of an individual or health care provider is privileged and may not be disclosed to any person except to the extent necessary to carry out the purposes of the review team. Sets forth information that is prohibited from being disclosed under this subsection.

(c) Provides that a review team work product and information obtained by a review team including certain information relating to work product are confidential and are not subject to disclosure under Chapter 552 (Public Information), Government Code. Provides that this subsection does not prevent a review team from releasing information described by Subsection (d) or (e).

(d) Provides that certain information is not confidential under this section if the information is general information that cannot be connected with any specific individual, case, or health care provider.

(e) Authorizes a review team to publish statistical studies and research reports based on information that is confidential under this section, provided that the information published may not identify a decedent or the decedent's family and may not include any information that could be used to identify a decedent or the decedent's family.

(f) Requires a review team to adopt and follow practices and procedures to ensure that information that is confidential under this section is not disclosed in violation of this section.

Sec. 674.008. IMMUNITY FROM SUBPOENA AND DISCOVERY. (a) Provides that a review team work product and certain information obtained by a review team are not subject to subpoena or discovery, and may not be introduced into evidence in any civil or criminal proceeding against a mother of a decedent or a health care provider.

(b) Provides that a document or other information that is otherwise available from another source is not protected from subpoena, discovery, or introduction into evidence under Subsection (a) solely because the document or other information was presented during a meeting of a review team or because a record of the document or other information is maintained by the review team.

Sec. 674.009. UNAUTHORIZED DISCLOSURE BY REVIEW TEAM MEMBER; OFFENSE. (a) Provides that a person commits an offense if the person is a member of a review team and the person knowingly discloses or inspects certain confidential information.

(b) Provides that an offense under Subsection (a) is a Class B misdemeanor.

Sec. 674.010. CIVIL ACTION FOR UNAUTHORIZED DISCLOSURE. Authorizes a person aggrieved by the disclosure of information in violation of Section 674.007 to bring an action against the person who made the disclosure for damages, court costs, and attorney's fees.

Sec. 674.011. IMMUNITY. Provides that except as specifically provided by Section 647.010, a member of a review team is not liable for damages to a person for an action taken or a recommendation made within the scope of the functions of the review team if the member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to the review team member.

Sec. 674.012. INAPPLICABILITY OF CHAPTER. Provides that this chapter does not apply to disclosure of records pertaining to voluntary or therapeutic termination of pregnancy, and those records may not be disclosed under this chapter.

SECTION 2. Amends Sections 264.501(3) and (8), Family Code, to redefine "child" and "preventable death."

SECTION 3. Makes application of Section 264.501, Family Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2005.