

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1404  
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Health & Human Services  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Department of State Health Services and its state laboratory oversees the state's newborn screening program, which screens babies born in the state twice for 53 conditions, hearing, and congenital heart disease for early diagnoses and preventative care.

The bill amends Chapters 47 and 33 of the Health and Safety Code to permit electronic capture and storage of parental consent for the Texas Newborn Hearing, Screening, Tracking, and Intervention Program. Electronic capture can provide a streamlined and secure method for hospitals and public health officials to record and access parental consent. The language also allows facilities, other providers, or the insurer to capture consent prior to admission in order to give parents this important information earlier and in a potentially less stressful environment than the labor and delivery room. The bill is intended to be permissive, and does not require facilities to implement an electronic system.

As proposed, S.B. 1404 amends current law relating to an electronic portal for disclosures and consent regarding certain newborn screening information.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) is modified in SECTION 4 (Section 47.008, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner in SECTION 6 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 33.0111(c), Health and Safety Code, as follows:

(c) Requires a physician attending a newborn child or the person attending the delivery of a newborn child that is not attended by a physician, at the time a newborn child is subjected to screening tests under Section 33.011 (Test Requirement) or at a time before the screening as determined by the physician or person, to provide the parent, managing conservator, or guardian of a newborn child a copy of the written disclosure statement developed by the Department of State Health Services (DSHS) under this section (Disclosure Statement and Consent).

SECTION 2. Amends Subchapter B, Chapter 33, Health and Safety Code, by adding Section 33.0113, as follows:

Sec. 33.0113. ELECTRONIC PORTAL. (a) Authorizes each birthing facility or other entity at which screening tests required under this chapter (Phenylketonuria, Other Heritable Diseases, Hypothyroidism, and Certain Other Disorders) are conducted to maintain an electronic portal through which a parent, managing conservator, or guardian of a newborn child is authorized to:

(1) access and confirm receipt of the disclosure statement described by Section 33.0111 before or at the time of the newborn screening;

(2) request an exemption to the screening tests under Section 33.012 (Exemption) before the newborn screening; and

(3) provide electronic consent, including through audio or video recording, to the disclosure of screening results under Section 33.018(c-1) (relating to the authorizing certain reports, records, and information that do not identify a child of the family or a child to be released for statistical purposes) before or at the time of the screening.

(b) Requires an electronic portal described by Subsection (a) to allow a parent, managing conservator, or guardian of a newborn child to revoke or modify the request for an exemption or consent to the disclosure of information provided through the portal.

SECTION 3. Amends Section 47.007(g), Health and Safety Code, to require the written or electronic consent, rather than written consent, of a parent necessary for certain information to be released.

SECTION 4. Amends Section 47.008(c), Health and Safety Code, to require the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule to develop guidelines to require the written or electronic consent, rather than written consent, of a parent or guardian of a patient before any individually identifying information is provided to DSHS as set out in this chapter (Hearing Loss in Newborns).

SECTION 5. Amends Chapter 47, Health and Safety Code, by adding Section 47.0085, as follows:

Sec. 47.0085. ELECTRONIC PORTAL. (a) Authorizes each birthing facility or other entity at which screening tests required under this chapter are conducted to maintain an electronic portal through which a parent of a newborn child is authorized to:

(1) receive notice of the screening requirements;

(2) electronically decline the screening; and

(3) provide electronic consent, including through audio or video recording, to the disclosure of any information for which consent is required under Sections 47.007 (Information Management, Reporting, and Tracking System) and 47.008 (Confidentiality and General Access to Data).

(b) Requires an electronic portal described by Subsection (a) to allow a parent of a newborn child to revoke or modify any consent to the disclosure of information and other information provided through the portal.

SECTION 6. Requires the executive commissioner, as soon as practicable after the effective date of this Act, to adopt rules necessary to implement the changes in law made by this Act.

SECTION 7. Effective date: September 1, 2019.