

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 793  
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Health & Human Services  
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Committee Report (Substituted)

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

The Texas Newborn Hearing Screening Program was created by the Texas Legislature in 1999. The Department of State Health Services (DSHS) administers this program to establish screening, diagnosing, monitoring, and reporting standards for the care of newborns and infants with hearing loss.

Hearing screening and intervention are point-of-service activities; therefore, a significant portion of statutory responsibilities falls to service providers rather than DSHS.

H.B. 411, 82nd Legislature, Regular Session, 2011, made several changes to the screening, reporting, oversight, and follow-up requirements for newborn hearing screening. Of particular note, facilities' responsibility related to screening newborns and infants was amended. H.B. 411:

- expanded the definition of "birthing facilities" to include hospitals and birthing centers in less populated counties, children's hospitals, and state-operated hospitals;
- explicitly removed the exemption of facilities operated by a licensed midwife; and
- expanded the responsibility of facilities in regard to provision of the hearing screening: "shall offer" was changed to "shall perform, either directly or through a transfer agreement."

The facilities most impacted by this change are the birthing centers operated by midwives. These facilities do not typically have hearing screening equipment, and so do not currently perform a hearing screening. After the legislative session, DSHS encountered difficulties in developing rules or guidelines for the midwife-operated facilities that comply with the law and that coincide with how these birthing centers operate.

It is not financially viable for many midwife-operated birthing centers to directly provide the hearing screening due to low client volume, cost of the equipment, and cost to comply with being a certified program. Thus, most birthing centers are more likely to rely on another mechanism to provide the hearing screening to their clients by referring them for the service elsewhere.

Under H.B. 411, use of a transfer agreement is the only indirect option in compliance with the law for performing the initial newborn hearing screen. However, the main area of difficulty identified by stakeholders representing birthing centers was the term "transfer agreement."

- These types of agreements usually apply to emergency situations in which a hospital receives a patient from another facility through its admissions process.
- This term is not easily applicable to midwife-operated birthing centers. Birthing centers have historically not been successful in executing formal transfer agreements.

C.S.S.B. 793 substitutes the term "referral" for "transfer agreement." This would offer midwife-run birthing centers a practical way to comply with the hearing screening law, if the centers are unable to directly provide the screening.

C.S.S.B. 793 amends current law relating to newborn hearing screening.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

### **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 Section 47.003(a), Health and Safety Code, to require a birthing facility, through a program certified by the Texas Department of Health under Section 47.004 (Certification of Screening Programs), to perform, either directly or through a referral to another program certified under that section, rather than through a transfer agreement, a hearing screening for the identification of hearing loss on each newborn or infant born at the facility before the newborn or infant is discharged from the facility unless the parent declines the screening; the newborn or infant is transferred to another facility before the screening is performed; the screening has previously been completed; or the newborn was discharged from the birthing facility not more than 10 hours after birth and a referral for the newborn was made to a program certified under Section 47.004 at another birthing facility or operated by a physician or other health care provider.

SECTION 2. Effective date: upon passage or September 1, 2013.