

## **BILL ANALYSIS**

Senate Research Center  
85R21377 KKR-F

H.B. 2886  
By: Klick (Burton)  
State Affairs  
5/18/2017  
Engrossed

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

Currently, Section 81.091 of the Texas Health and Safety Code requires a physician, nurse, midwife, or other person attending a birth to apply an antibiotic ointment to the newborn's eyes. The ointment prevents ophthalmia neonatorum and associated complications such as blindness that may arise in the newborn through a birth to a mother with certain, untreated, sexually transmitted infections.

Some parents refuse the administration of the ointment. A parent's refusal puts the healthcare provider at risk since there is no exemption for refusing the ointment and no statutorily authorized process for documenting a parent's refusal.

H.B. 2886 protects healthcare providers in these situations by specifying that a provider attending a childbirth does not commit an offense under this section and is not subject to criminal, civil, or administrative liability or any professional disciplinary action for failure to administer the ointment due to a parent's refusal. The provider must document this refusal in the newborn's medical record.

Under this change, the requirement to apply the ointment in statute is unaffected and healthcare providers are protected from civil or criminal liability if they are unable to apply the ointment because of the refusal of a parent.

H.B. 2886 amends current law relating to limiting the liability of certain health care providers.

### **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 81.091, Health and Safety Code, by amending Subsection (g) and adding Subsection (g-1), as follows:

(g) Creates an exception under Subsection (g-1).

(g-1) Provides that a physician, nurse, midwife, or other person in attendance at childbirth who is unable to apply the prophylaxis as required by this section due to the objection of a parent, managing conservator, or guardian of the newborn infant does not commit an offense under this section and is not subject to criminal, civil, or administrative liability or any professional disciplinary action for failure to administer the prophylaxis. Requires the physician, nurse, midwife, or person to ensure that the objection of the parent, managing conservator, or guardian is entered into the medical record of the infant.

SECTION 2. Effective date: September 1, 2017.