

BILL ANALYSIS

Senate Research Center

S.B. 747
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas public health laboratory tests nearly 400,000 infants each year for 53 disorders or medical conditions. The lab is currently experiencing a gap in funding to maintain current levels of screening and functionality.

The Department of State Health Services (DSHS) currently does not post the cost of newborn screening testing, nor is the cost routinely updated. Further, providers face uncertainty with cost reimbursements for state-required testing.

S.B. 747 ensures DSHS publicly posts and updates the costs of newborn screenings. The bill also prohibits a health insurance plan from limiting reimbursement to providers who administer state-required newborn screening tests.

Key Provisions

S.B. 747 directs DSHS to post publicly on the DSHS website the costs of newborn screening kits. DSHS is also required to provide a 90-day notice before changing the cost of the kits.

The bill also prohibits a health benefit plan that provides maternity benefits or accident and health coverage for additional newborn children from excluding or limiting coverage for newborn screenings. (Original Author's/Sponsor's Statement of Intent)

S.B. 747 amends current law relating to the administration of the newborn screening program.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) in SECTION 6 of this bill.

Rulemaking authority previously granted to the executive commissioner is modified in SECTION 1 (Section 33.004, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Texas Department of Health is transferred to the executive commissioner in SECTION 4 (Section 1271.154, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 33.004(f), Health and Safety Code, as follows:

(f) Requires, rather than authorizes, the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule to establish the amounts charged for newborn screening fees, including fees assessed for follow-up services, tracking confirmatory testing, and diagnosis. Requires the executive commissioner, in adopting rules under this subsection, to ensure that amounts charged for newborn screening fees are sufficient to cover the costs of performing the screening.

SECTION 2. Amends Subchapter B, Chapter 33, Health and Safety Code, by adding Section 33.019, as follows:

Sec. 33.019. NOTICE OF COST AND CLAIM PROCESS. (a) Requires the Department of State Health Services (DSHS) to publish on its Internet website the cost of and instructions on the full claim and reimbursement process for a newborn screening test kit to be used to comply with the test requirements of Section 33.011 (Test Requirement).

(b) Authorizes DSHS to change the cost published under Subsection (a) not later than the 90th day before the date DSHS publishes notice of the change on its Internet website. Requires DSHS, if DSHS changes the cost under this subsection, to retain a record of the previous cost until the first anniversary of the date of the change.

SECTION 3. Amends Chapter 33, Health and Safety Code, by adding Subchapter D, as follows:

SUBCHAPTER D. NEWBORN SCREENING PRESERVATION ACCOUNT

Sec. 33.051. DEFINITION. Defines "account" for purposes of this subchapter.

Sec. 33.052. CREATION OF ACCOUNT. (a) Provides that the newborn screening preservation account is a dedicated account in the general revenue fund. Authorizes money in the account to be appropriated only to DSHS and only for the purpose of carrying out the newborn screening program established under this chapter (Phenylketonuria, Other Heritable Diseases, Hypothyroidism, and Certain Other Disorders).

(b) Requires the comptroller of public accounts of the State of Texas, on November 1 of each year, to transfer to the account any unexpended and unencumbered money from Medicaid reimbursements collected by DSHS for newborn screening services during the preceding state fiscal year.

(c) Provides that the account is composed of:

- (1) money transferred to the account under Subsection (b);
- (2) gifts, grants, donations, and legislative appropriations; and
- (3) interest earned on the investment of money in the account.

(d) Provides that Section 403.0956 (Reallocation of Interest Accrued on Certain Dedicated Revenue), Government Code, does not apply to the account.

(e) Provides that DSHS administers the account. Authorizes DSHS to solicit and receive gifts, grants, and donations from any source for the benefit of the account.

Sec. 33.053. DEDICATED USE. (a) Authorizes DSHS to use any money remaining in the account after paying the costs of operating the newborn screening program established under this chapter only to:

- (1) pay the costs of offering additional newborn screening tests not offered under this chapter before September 1, 2019, including the operational costs incurred during the first year of implementing the additional tests; and
- (2) pay for capital assets, equipment, and renovations for the laboratory established by DSHS to ensure the continuous operation of the newborn screening program.

(b) Prohibits DSHS from using money from the account for DSHS's general operating expenses.

Sec. 33.054. REPORT. Requires DSHS, if DSHS requires an additional newborn screening test under Subchapter B (Newborn Screening) the costs of which are funded with money appropriated from the newborn screening preservation account, not later than September 1 of each even-numbered year, to prepare and submit to the governor, the lieutenant governor, the speaker of the house of representatives, and each standing committee of the legislature having primary jurisdiction over DSHS a written report that:

(1) summarizes the implementation plan for the test, including anticipated completion dates for implementing the test and potential barriers to conducting the test; and

(2) summarizes the actions taken by DSHS to fund and implement the test during the preceding two years.

SECTION 4. Amends Section 1271.154, Insurance Code, as follows:

Sec. 1271.154. WELL-CHILD CARE FROM BIRTH. (a) Redefines "well-child care from birth" to include administration of newborn screening required by DSHS and the cost of the newborn screening test kit described by Section 33.019, Health and Safety Code.

(b) Requires a health maintenance organization to ensure that each health care plan provided by the health maintenance organization includes well-child care from birth that complies with:

(1) makes no changes to this subdivision; and

(2) the rules adopted by the executive commissioner, rather than by the Texas Department of Health, to implement those requirements, including rules on the cost of the newborn screening test kit described by Section 33.019, Health and Safety Code.

SECTION 5. Amends Section 1367.003, Insurance Code, as follows:

Sec. 1367.003. CERTAIN LIMITATIONS ON COVERAGE FOR NEWBORN CHILDREN PROHIBITED. Prohibits a health benefit plan that provides maternity benefits or accident and health coverage for additional newborn children from being issued in this state if the plan excludes or limits certain coverage including coverage for administration of the newborn screening tests required by Section 33.011, Health and Safety Code, including for the cost of a newborn screening test kit in the amount provided by DSHS on its Internet website under Section 33.019 of that code on the date the test was administered.

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

SECTION 7. Requires DSHS, notwithstanding Section 33.054, Health and Safety Code, as added by this Act, to submit the first report required by that section not later than December 1, 2019.

SECTION 8. Makes application of Section 33.019, Health and Safety Code, as added by this Act, and Sections 1271.154 and 1367.003, Insurance Code, as amended by this Act, prospective to January 1, 2020.

SECTION 9. Effective date: September 1, 2019.