

AN ACT

relating to the conduct of newborn screening by the Department of State Health Services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 33, Health and Safety Code, is amended to read as follows:

CHAPTER 33. PHENYLKETONURIA, OTHER HERITABLE DISEASES, ~~[AND]~~  
HYPOTHYROIDISM, AND CERTAIN OTHER DISORDERS

SECTION 2. Subchapter A, Chapter 33, Health and Safety Code, is amended by adding Section 33.004 to read as follows:

Sec. 33.004. STUDY ON NEWBORN SCREENING METHODOLOGY AND EQUIPMENT. (a) Not later than March 1, 2006, the department shall:

(1) conduct a study to determine the most cost-effective method of conducting newborn screening, including screening for disorders listed in the core uniform panel of newborn screening conditions recommended in the 2005 report by the American College of Medical Genetics entitled "Newborn Screening: Toward a Uniform Screening Panel and System" or another report determined by the department to provide more appropriate newborn screening guidelines, to protect the health and welfare of this state's newborns and to maximize the number of newborn screenings that may be conducted with the funding available for the screening;

(2) determine the disorders to be studied under Subdivision (1) and ensure the study does not examine screening and

1 services provided under Chapter 47; and

2 (3) obtain proposals or information regarding the  
3 conduct of newborn screening and compare the costs of the  
4 department performing newborn screening services to the costs of  
5 outsourcing screening to a qualified laboratory with at least two  
6 years' experience performing newborn screening tests.

7 (a-1) Not later than October 1, 2005, the department shall  
8 review and study the National Newborn Screening and Genetics  
9 Resources Center's assessment of the screening program in this  
10 state. Based on the findings and recommendations in the assessment,  
11 the executive commissioner of the Health and Human Services  
12 Commission may adopt rules for the department to implement a  
13 newborn screening program. In adopting rules for the newborn  
14 screening program, the department and the executive commissioner:

15 (1) may seek input during the rulemaking process from  
16 individuals and groups with an interest or expertise in newborn  
17 screening;

18 (2) may use informal conferences or consultations to  
19 obtain opinions on the program as provided by Section 2001.031,  
20 Government Code; and

21 (3) must provide an opportunity for the individuals  
22 and groups described by Subdivision (1) to appear before the  
23 department before a notice of proposed rules is given as required by  
24 Section 2001.023, Government Code.

25 (a-2) This subsection and Subsection (a-1) expire January  
26 1, 2007.

27 (b) In accordance with rules adopted by the executive

1 commissioner of the Health and Human Services Commission, the  
2 department may implement a newborn screening program.

3 (b-1) Not later than March 1, 2006, the department shall  
4 file with the governor's office a written report of the results and  
5 conclusions of the study conducted by the department under  
6 Subsection (a). This subsection expires January 1, 2007.

7 (c) If the department determines under Subsection (a) that  
8 the department's performance of newborn screening services is more  
9 cost-effective than outsourcing newborn screening, the department  
10 shall obtain the use of screening methodologies, including tandem  
11 mass spectrometers, and hire the employees necessary to administer  
12 newborn screening under this chapter.

13 (d) If the department determines under Subsection (a) that  
14 outsourcing of newborn screening is more cost-effective, the  
15 department shall contract for the resources and services necessary  
16 to conduct newborn screening using a competitive procurement  
17 process.

18 (e) The department shall periodically review the newborn  
19 screening program as revised under this section to determine the  
20 efficacy and cost-effectiveness of the program and determine  
21 whether adjustments to the program are necessary to protect the  
22 health and welfare of this state's newborns and to maximize the  
23 number of newborn screenings that may be conducted with the funding  
24 available for the screening.

25 (f) The department may adjust the amounts charged for  
26 newborn screening fees, including fees assessed for follow-up  
27 services, tracking confirmatory testing, and diagnosis.

1 SECTION 3. Section 33.011, Health and Safety Code, is  
2 amended by amending Subsection (a) and adding Subsection (a-1) to  
3 read as follows:

4 (a) The physician attending a newborn child or the person  
5 attending the delivery of a newborn child that is not attended by a  
6 physician shall subject the child to screening tests approved by  
7 the department for phenylketonuria, other heritable diseases,  
8 ~~[and]~~ hypothyroidism, and other disorders for which screening is  
9 required by the department.

10 (a-1) To the extent funding is available for the screening,  
11 the department shall require newborn screening tests to screen for  
12 disorders listed in the core uniform panel of newborn screening  
13 conditions recommended in the 2005 report by the American College  
14 of Medical Genetics entitled "Newborn Screening: Toward a Uniform  
15 Screening Panel and System" or another report determined by the  
16 department to provide more appropriate newborn screening  
17 guidelines to protect the health and welfare of this state's  
18 newborns.

19 SECTION 4. Section 33.014(a), Health and Safety Code, is  
20 amended to read as follows:

21 (a) If, because of an analysis of a specimen submitted under  
22 Section 33.011, the department reasonably suspects that a newborn  
23 child may have phenylketonuria, another heritable disease, ~~[or]~~  
24 hypothyroidism, or another disorder for which the screening tests  
25 are required, the department shall notify the person who submits  
26 the specimen that the results are abnormal and provide the test  
27 results to that person. The department may notify one or more of

1 the following that the results of the analysis are abnormal and  
2 recommend ~~that~~ further testing when ~~is~~ necessary:

3 (1) the physician attending the newborn child or the  
4 physician's designee;

5 (2) the person attending the delivery of the newborn  
6 child that was not attended by a physician;

7 (3) the parents of the newborn child;

8 (4) the health authority of the jurisdiction in which  
9 the newborn child was born or in which the child resides, if known;  
10 or

11 (5) physicians who are cooperating pediatric  
12 specialists for the program.

13 SECTION 5. Section 33.031(a), Health and Safety Code, is  
14 amended to read as follows:

15 (a) All newborn children and other individuals under 21  
16 years of age who have been screened, have been found to be  
17 presumptively positive through the newborn screening program for  
18 phenylketonuria, other heritable diseases, hypothyroidism, or  
19 another disorder for which the screening tests are required, and  
20 may be financially eligible may be referred to the department's  
21 services program for children with special health care needs.

22 SECTION 6. Section 33.032(a), Health and Safety Code, is  
23 amended to read as follows:

24 (a) Within the limits of funds available for this purpose  
25 and in cooperation with the individual's physician, the department  
26 may provide services directly or through approved providers to  
27 individuals of any age who meet the eligibility criteria specified

1 by board rules on the confirmation of a positive test for  
2 phenylketonuria, other heritable diseases, [~~or~~] hypothyroidism, or  
3 another disorder for which the screening tests are required.

4 SECTION 7. Not later than November 1, 2006, the Department  
5 of State Health Services shall implement the expanded newborn  
6 screening program using the most cost-effective methods as  
7 determined by the department under Section 33.004, Health and  
8 Safety Code, as added by this Act.

9 SECTION 8. This Act takes effect September 1, 2005.

David Swinhart

President of the Senate

Tom Caddell

Speaker of the House

I certify that H.B. No. 790 was passed by the House on May 5, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 790 on May 27, 2005, by a non-record vote.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 790 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 31, Nays 0.

Letsy Spivey  
Secretary of the Senate

APPROVED: 18 JUNE '05

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
9:15 AM O'CLOCK

Roger Williams  
Secretary of State