

BILL ANALYSIS

C.S.H.B. 1670
By: Sheets
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that it is unclear whether removing a placenta from a health care facility is legal in Texas. Though some Texas hospitals have developed procedures to allow postpartum mothers to remove the placenta when they are discharged, other hospitals prohibit this activity. The parties contend that a postpartum mother should have the right to remove her placenta for religious or other personal use. C.S.H.B. 1670 seeks to ensure this right.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1670 amends the Health and Safety Code to require a licensed hospital or birthing center or a hospital that is maintained or operated by the state without a court order to allow a woman who has given birth in the facility, or the woman's spouse if the woman is incapacitated or deceased, to take possession of and remove from the facility the placenta if the woman tests negative for infectious diseases as evidenced by the results of the diagnostic testing performed during pregnancy and after delivery and the person taking possession of the placenta signs a form prescribed by the Department of State Health Services (DSHS) acknowledging that the person has received from the hospital or birthing center educational information prescribed by DSHS concerning the spread of blood-borne diseases from placentas, the proper handling of placentas, and the danger of ingesting formalin and acknowledging that the placenta is for personal use. The bill requires a hospital or birthing center to retain the signed form with the woman's medical records. The bill authorizes a person removing a placenta from a hospital or birthing center to retain the placenta only for personal use and prohibits the person from selling the placenta.

C.S.H.B. 1670 expressly does not prohibit a pathological examination of the delivered placenta that is ordered by a physician or required by a policy of the hospital or birthing center, specifies that the requirement for a hospital or birthing center to allow the removal of a placenta from the facility does not apply to the portion of a delivered placenta that is necessary for such an examination, and expressly does not authorize a woman or the woman's spouse to interfere with such an examination. The bill establishes that a hospital or birthing center that allows a person to take possession of and remove from the facility a delivered placenta in compliance with the bill's provisions is not required to dispose of the placenta as medical waste. The bill establishes that a hospital or birthing center that acts in accordance with the bill's provisions is not liable for the act in a civil action, a criminal prosecution, or an administrative proceeding. The bill requires

DSHS to develop the form and the educational information required by the bill and to post a copy of the form and information on the DSHS website.

C.S.H.B. 1670 requires the executive commissioner of the Health and Human Services Commission, not later than December 1, 2015, to adopt the rules necessary to implement the bill's provisions. The bill specifies that a hospital or birthing facility is not required to comply with the bill's provisions until January 1, 2016.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1670 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 172 to read as follows:

CHAPTER 172. REMOVAL OF PLACENTA FROM HOSPITAL OR BIRTHING CENTER

Sec. 172.001. DEFINITIONS. In this chapter:

(1) "Birthing center" means a facility licensed under Chapter 244.

(2) "Hospital" means a facility licensed under Chapter 241.

Sec. 172.002. REMOVAL OF PLACENTA FROM HOSPITAL OR BIRTHING CENTER.

(a) A hospital or birthing center without a court order shall allow a woman who has given birth in the facility, or a spouse of the woman if the woman is incapacitated or deceased, to take possession of and remove from the facility the delivered placenta if:

(1) the woman tests negative for infectious diseases specified in department rules; and

(2) the person taking possession of the placenta signs a form prescribed by the department acknowledging that:

(A) the person has received from the hospital or birthing center educational information prescribed by the department concerning the spread of blood-borne diseases from placentas and the proper

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 172 to read as follows:

CHAPTER 172. REMOVAL OF PLACENTA FROM HOSPITAL OR BIRTHING CENTER

Sec. 172.001. DEFINITIONS. In this chapter:

(1) "Birthing center" means a facility licensed under Chapter 244.

(2) "Hospital" means a facility licensed under Chapter 241 or a hospital maintained or operated by this state.

Sec. 172.002. REMOVAL OF PLACENTA FROM HOSPITAL OR BIRTHING CENTER.

(a) Except for the portion of a delivered placenta that is necessary for an examination described by Subsection (d), a hospital or birthing center without a court order shall allow a woman who has given birth in the facility, or a spouse of the woman if the woman is incapacitated or deceased, to take possession of and remove from the facility the placenta if:

(1) the woman tests negative for infectious diseases as evidenced by the results of the diagnostic testing required by Section 81.090; and

(2) the person taking possession of the placenta signs a form prescribed by the department acknowledging that:

(A) the person has received from the hospital or birthing center educational information prescribed by the department concerning the spread of blood-borne diseases from placentas, the danger of

handling of placentas; and

(B) the placenta is for personal use.

(b) A person removing a placenta from a hospital or birthing center under this section may only retain the placenta for personal use and may not sell the placenta.

(c) A hospital or birthing center shall retain a signed form received under Subsection (a) with the woman's medical records.

Sec. 172.003. DEPARTMENT DUTIES. The department shall develop the form and the educational information required under Section 172.002 and post a copy of the form and information on the department's Internet website.

SECTION 2. (a) Not later than December 1, 2015:

(1) the Department of State Health Services shall prescribe the form and educational information as required under Chapter 172, Health and Safety Code, as added by this Act; and

(2) the executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement Chapter 172, Health and Safety Code, as added by this Act.

(b) Notwithstanding Section 172.002, Health and Safety Code, as added by this Act, a hospital or birthing facility is not required to comply with that section until January 1, 2016.

ingesting formalin, and the proper handling of placentas; and

(B) the placenta is for personal use.

(b) A person removing a placenta from a hospital or birthing center under this section may only retain the placenta for personal use and may not sell the placenta.

(c) A hospital or birthing center shall retain a signed form received under Subsection (a) with the woman's medical records.

(d) This section does not prohibit a pathological examination of the delivered placenta that is ordered by a physician or required by a policy of the hospital or birthing center.

(e) This section does not authorize a woman or the woman's spouse to interfere with a pathological examination of the delivered placenta that is ordered by a physician or required by a policy of the hospital or birthing center.

(f) A hospital or birthing center that allows a person to take possession of and remove from the facility a delivered placenta in compliance with this section is not required to dispose of the placenta as medical waste.

(g) A hospital or birthing center that acts in accordance with this section is not liable for the act in a civil action, a criminal prosecution, or an administrative proceeding.

Sec. 172.003. DEPARTMENT DUTIES. The department shall develop the form and the educational information required under Section 172.002 and post a copy of the form and information on the department's Internet website.

SECTION 2. (a) Not later than December 1, 2015,

the executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement Chapter 172, Health and Safety Code, as added by this Act.

(b) Notwithstanding Section 172.002, Health and Safety Code, as added by this Act, a hospital or birthing facility is not required to comply with that section until January 1, 2016.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 3. Same as introduced version.