

SUBJECT: Creating a task force to study maternal mortality and morbidity

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Kolkhorst, Naishtat, Collier, Cortez, S. Davis, Guerra, S. King, J.D. Sheffield, Zedler

1 nay — Laubenberg

1 absent — Coleman

SENATE VOTE: On final passage, May 2 — 31-0

WITNESSES: (*On House companion, HB 1085*)

For — Lisa Hollier, Texas Medical Association, Texas District American Congress of Obstetricians and Gynecologists; (*Registered, but did not testify*: Jennifer Allmon, Texas Catholic Conference, the Roman Catholic Bishops of Texas; Jennifer Banda, Texas Hospital Association; Charles Brown; Trish Conratt, Coalition for Nurses in Advanced Practice; Kathy Eckstein, Children’s Hospital Association of Texas; Laurie Glaze, One Voice Texas; Harry Holmes, Harris County Healthcare Alliance; Mandi Kimball, Children at Risk; Shannon Lucas, March of Dimes; Michael Matherne; Maureen Milligan, Teaching Hospitals of Texas; Josette Saxton, Texans Care for Children; Rebekah Schroeder, Texas Children’s Hospital)

Against — (*Registered, but did not testify*: Ashley Chadwick, Freedom of Information Foundation of Texas; Ken Stanford II)

On — June Hanke, Harris Health System; (*Registered, but did not testify*: Sam Cooper III, Department of State Health Services)

BACKGROUND: Government Code, ch. 551 requires that certain meetings by government entities be open to the public. Government Code, ch. 552 establishes that information collected, assembled, or maintained by or for a government body is public information.

DIGEST: SB 495 would create the Maternal Mortality and Morbidity Review Task

Force under the Department of State Health Services.

Duties and meetings. The task force would have to:

- study and review cases of pregnancy-related deaths and trends in severe maternal mortality;
- determine the feasibility of the task force studying cases of severe maternal morbidity (nearly fatal complications); and
- make recommendations to help reduce the frequency of pregnancy-related deaths and severe maternal morbidity in Texas.

The task force would meet at least quarterly or at the call of the department commissioner. The task force meetings would be closed to the public.

Members. The task force would be a multidisciplinary advisory committee of 15 members, with the department commissioner appointing 13 of the members with specific health care experience. The remaining members would be the state epidemiologist or a designee and a representative from the department's family and community health programs. The bill specifies term lengths, and procedures for appointing members and filling vacancies. The members would not be compensated or reimbursed for travel and other expenses, but they could use teleconferencing and videoconferencing technology. The department commissioner would have to appoint the members of the task force by December 1, 2013.

When appointing members, the commissioner would have to include members from different geographic regions, communities that were affected by pregnancy-related death and severe maternal morbidity, and areas that lacked access to perinatal and intrapartum (childbirth) care services. The task force would also need to reflect the state's racial, ethnic, and linguistic diversity.

The department and the task force could consult with relevant experts, stakeholders, state professional associations, and organizations. The bill would provide a list of experts, stakeholders, and organizations with whom the department and task force could consult. These individuals and organizations could not have access to any patient or provider identifying information. The department could enter into agreements with institutions of higher education to help fulfill the task force's duties.

Case selection and confidentiality. The bill would create procedures for selecting cases and maintaining confidentiality. It would also provide immunity in certain situations.

Case selection. The department would have to provide the task force with the information necessary to review cases, and the information could not include patient or provider identifying information. The department would have to determine a statistically significant number of pregnancy-related deaths for review and pick the cases by random selection. They would also need to identify trends by analyzing aggregate data of severe maternal morbidity. If feasible, the department could randomly select cases of maternal morbidity for review.

A hospital, birthing center, or other custodian would have to provide the department with the requested information, and the information could be provided without patient or family authorization. A person who gave information to the department would not be subject to administrative, civil, or criminal penalties.

The department could have access to certain information that could include patient identifying information, but this information could not be disclosed to the task force or any other person. This information would be:

- birth records;
- fetal death records;
- maternal death records; and
- hospital and birthing center discharge data.

This bill would not apply to records related to voluntary or therapeutic terminations of pregnancy, and this information could not be collected, maintained, or disclosed under this bill.

Confidentiality. Any information about a pregnancy-related death or severe maternal morbidity would be confidential and any personal or provider identifying information would be privileged and could not be disclosed. The bill would specify certain types of information that could not be disclosed. The task force's work product and information obtained from the department would also be confidential.

The bill would list the types of information that would not be confidential,

including statistical information and certain aggregated data, among other things. The task force could publish statistical studies and research reports if these documents complied with certain requirements, including state and federal confidentiality laws and Health Insurance Portability and Accountability Act (HIPAA) rules.

Subpoena and discovery. The task force's work product and confidential information would not be subject to subpoenas or discovery and could not be introduced as evidence in any proceeding against a patient, family member, or health care provider.

Immunity. A task force member, or someone acting as an advisor, would not be liable for actions within the scope of task force functions, unless the individual acted with malice or without reasonable belief that the action was warranted. This would not provide immunity to someone who violated state law, federal law, or HIPAA rules.

Database. The department could establish and maintain an electronic database to track cases of pregnancy-related deaths and severe maternal morbidity. Only the department and the task force could access the database. The database could not disclose identifying information, including patient names, provider names, and specific provider locations.

Funding, reports, and rules. In order to fund the task force, the department would have to apply for federal funds and could accept gifts and grants.

By September 1, 2014, the department would need to submit a report to certain government authorities on the progress of establishing the task force and any legislative recommendations to help study pregnancy-related deaths and severe maternal morbidity.

Every even-numbered year, the department and the task force would need to submit a joint report to certain government authorities on any findings and recommendations. The department would need to disseminate the report to specified state professional associations and organizations, and it would be publicly available. They would not have to submit the first report before September 1, 2016.

The executive commissioner of the Health and Human Services Commission could adopt any necessary rules to implement the bill. Unless

continued in existence after Sunset review, the task force would be abolished on September 1, 2019.

Definitions. The bill would define a number of relevant terms, including maternal morbidity, perinatal care, and pregnancy-related death, among others.

This bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

SB 495 would help reduce the number of pregnancy-related deaths and severe complications in Texas. Currently, the state's maternal mortality rate is higher than the national average and the Centers for Disease Control and Prevention (CDC) estimates that the actual number of maternal deaths can be two times greater than what is reported. Moreover, the rates of nearly fatal pregnancy-related complications, also known as severe maternal morbidity, are also rising. This bill would provide Texas something it lacks: a statewide system for collecting and analyzing data on pregnancy-related deaths and severe complications. With this information, the task force could make recommendations to improve maternal health services and outcomes.

By authorizing the department to study these important issues, the bill would help Texas improve existing services and reduce costs related to maternal deaths and severe complications. Ultimately, this could help decrease the government's health care expenditures.

The bill would take steps to protect identifying information and maintain confidentiality. This would include, in part, keeping task force meetings closed to the public. This would be necessary to safeguard the sensitive and personal nature of the data that would be discussed during meetings.

**OPPONENTS
SAY:**

SB 495 would be unnecessary and inappropriately increase the size and scope of the state government. Data about maternal deaths and severe complications could and should be collected and analyzed by another entity, such as a private research institution.

The bill would lack transparency because the task force's meetings would be closed to the public. The department is funded by taxpayer dollars, so openness and accountability are critical. At the very least, the public should be allowed to comment on the task force's research methods and findings.