

SUBJECT: Possession and removal of a placenta from a hospital or birthing center

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Crossover, Naishtat, Blanco, Coleman, Collier, S. Davis, Guerra, D. Miller, Sheffield, Zedler, Zerwas

0 nays

WITNESSES: For — Susan Hays, NARAL ProChoice Texas; Lisa Kestler; Liane Macpherson; Melissa Mathis; (*Registered, but did not testify:* Aaron Hines and Anna Hines, #PassThePlacenta; Ian Randolph, Coalition for Nurses in Advanced Practice; Kathy Hutto, Consortium of Texas Certified Nurse Midwives; Eileen Garcia, Texans Care for Children; Jennifer Banda, Texas Hospital Association; and 15 individuals)

Against — None

On — (*Registered, but did not testify:* Allison Hughes, Department of State Health Services)

BACKGROUND: Health and Safety Code, sec. 81.090 requires a physician to submit a sample of a woman's blood during gestation or at delivery of an infant to an appropriately certified laboratory for diagnostic testing approved by the U.S. Food and Drug Administration for syphilis, HIV infection, and hepatitis B infection.

Health and Safety Code, ch. 244 regulates birthing centers, and Health and Safety Code, ch. 241 governs regulation of hospitals in the state.

Certain Texas hospitals have developed procedures to allow mothers, after they give birth, to remove the placenta from the hospital when they are discharged, but some hospitals prohibit this activity. Some have called for all hospitals to allow a postpartum mother to have the right to remove her placenta from the hospital or birthing center for personal or religious use.

DIGEST:

CSHB 1670 would allow a woman who had given birth in a hospital or birthing center, or a spouse of the woman if the woman was incapacitated or deceased, to take possession of and remove from the facility the delivered placenta without a court order, if:

- the woman tested negative for infectious diseases as evidenced by the results of diagnostic testing required under Health and Safety Code, sec. 81.090; and
- the person taking possession of the placenta signed a form prescribed by the Department of State Health Services acknowledging that the person had received educational information prescribed by the department about the spread of blood-borne diseases from placentas, the danger of ingesting formalin, and the proper handling of placentas, and that the placenta was for personal use.

The Department of State Health Services would retain the signed form with the woman's medical records. The department also would post the blank form and educational information about placentas to be provided to a woman on the department's website.

Under the bill, a person taking a placenta from a hospital or birthing center could keep the placenta only for personal use and could not sell the placenta. The bill would not prohibit a pathological examination of the delivered placenta that was ordered by a physician or required by a policy of the hospital or birthing center. The bill would not authorize a woman or her spouse to interfere with the pathological examination.

A hospital or birthing center that allowed a person to take possession of and remove from the facility a delivered placenta in compliance with the provisions of the bill would not be required to dispose of the placenta as medical waste and would not be liable for acts under the provisions of the bill in a civil action, a criminal prosecution, or an administrative proceeding.

The bill would direct the executive commissioner of the Health and

Human Services Commission to adopt the rules necessary to implement the provisions of the bill by December 1, 2015. A hospital or birthing facility would not be required to comply with the provisions of the bill until January 1, 2016.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.