CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-30-09
Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 1795 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Paula Pierson
Paula Pierson

Craig Eiland
Craig Eiland

Brian McCall
Brian McCall

John Zerwas
John Zerwas

On the part of the Senate

On the part of the House

Veronica Gonzales

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

09D 47

CONFERENCE COMMITTEE REPORT

3rd Printing

H. B. No. 1795

A BILL TO BE ENTITLED

AN ACT

relating to newborn screening and the creation of the Newborn Screening Advisory Committee.

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

SECTION 1. This Act may be cited as "Greyson's Law" in memory of Greyson Morris.

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

(a-1) Except as provided by this subsection and to [~~To~~] the extent funding is available for the screening, the department shall require newborn screening tests to screen for disorders listed in the core [~~uniform~~] panel and in the secondary targets of the uniform newborn screening panel [~~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 stringent [~~more appropriate~~] newborn screening guidelines to protect the health and welfare of this state's newborns. The department, with the advice of the Newborn Screening Advisory Committee, may require additional newborn screening tests under this subsection to screen for other disorders or conditions. The department may exclude from the newborn screening tests required under this subsection screenings for galactose epimerase and galactokinase.

SECTION 3. Subchapter B, Chapter 33, Health and Safety

Code, is amended by adding Section 33.017 to read as follows:

Sec. 33.017. NEWBORN SCREENING ADVISORY COMMITTEE. (a) The department shall establish the Newborn Screening Advisory Committee.

(b) The advisory committee consists of members appointed by the commissioner of state health services. The advisory committee must include the following members:

(1) health care providers;

(2) a hospital representative;

(3) persons who have family members affected by a condition for which newborn screening is or may be required under this subchapter; and

(4) persons who are involved in the delivery of newborn screening services, follow-up, or treatment in this state.

(c) The advisory committee shall advise the department regarding strategic planning, policy, rules, and services related to newborn screening and additional newborn screening tests.

(d) The advisory committee shall adopt bylaws governing the committee's operations.

(e) The advisory committee may appoint subcommittees.

(f) The advisory committee shall meet at least three times each year and at other times at the call of the commissioner of state health services.

(g) A member of the advisory committee is not entitled to compensation, but is entitled to reimbursement for travel or other expenses incurred by the member while conducting the business of the advisory committee, as provided by the General Appropriations

Act.

(h) The advisory committee is not subject to Chapter 2110, Government Code.

SECTION 4. (a) As soon as practicable after the effective date of this Act, the commissioner of state health services shall appoint members to the Newborn Screening Advisory Committee as required under Section 33.017, Health and Safety Code, as added by this Act.

(b) Notwithstanding Section 33.011, Health and Safety Code, as amended by this Act, a physician or person attending the delivery of a newborn child is not required to subject the child to the additional newborn screening tests required under Section 33.011(a-1), Health and Safety Code, as amended by this Act, until January 1, 2010.

SECTION 5. The heading to Section 81.090, Health and Safety Code, is amended to read as follows:

Sec. 81.090. DIAGNOSTIC [~~SEROLOGIC~~] TESTING DURING PREGNANCY AND AFTER BIRTH.

SECTION 6. Section 81.090, Health and Safety Code, is amended by amending Subsections (a), (b), (c), (i), (j), (k), and (l) and adding Subsections (a-1), (c-1), and (c-2) to read as follows:

(a) A physician or other person permitted by law to attend a pregnant woman during gestation or at delivery of an infant shall:

(1) take or cause to be taken a sample of the woman's blood or other appropriate specimen at the first examination and visit;

(2) submit the sample to an appropriately certified [~~a~~] laboratory [~~approved under this section~~] for diagnostic testing approved by the United States Food and Drug Administration for:

(A) [~~a standard serologic test for~~] syphilis [~~approved by the board~~];

(B) [~~a standard serologic test for~~] HIV infection [~~approved by the board~~]; and

(C) [~~a standard serologic test for~~] hepatitis B infection [~~approved by the board~~]; and

(3) retain a report of each case for nine months and deliver the report to any successor in the case.

(a-1) A physician or other person permitted by law to attend a pregnant woman during gestation or at delivery of an infant shall:

(1) take or cause to be taken a sample of the woman's blood or other appropriate specimen at an examination in the third trimester of the pregnancy;

(2) submit the sample to an appropriately certified laboratory for a diagnostic test approved by the United States Food and Drug Administration for HIV infection; and

(3) retain a report of each case for nine months and deliver the report to any successor in the case.

(b) A successor is presumed to have complied with this section if the successor in good faith obtains a record that indicates compliance with Subsections (a) and (a-1), if applicable.

(c) A physician or other person in attendance at a delivery shall:

(1) take or cause to be taken a sample of blood or

other appropriate specimen from the mother on admission for delivery; and

(2) submit the sample to an appropriately certified [~~a~~] laboratory [~~approved under this section~~] for diagnostic testing approved by the United States Food and Drug Administration for:

(A) [~~a standard serologic test for~~] syphilis [~~approved by the board~~]; and

(B) [~~a standard serologic test for HIV infection approved by the board; and~~

[~~(C) a standard serologic test for~~] hepatitis B infection [~~approved by the board~~].

(c-1) If the physician or other person in attendance at the delivery does not find in the woman's medical records results from the diagnostic test for HIV infection performed under Subsection (a-1), the physician or person shall:

(1) take or cause to be taken a sample of blood or other appropriate specimen from the mother;

(2) submit the sample to an appropriately certified laboratory for diagnostic testing approved by the United States Food and Drug Administration for HIV infection; and

(3) instruct the laboratory to expedite the processing of the test so that the results are received less than six hours after the time the sample is submitted.

(c-2) If the physician or other person in attendance at the delivery does not find in the woman's medical records results from a diagnostic test for HIV infection performed under Subsection (a-1), and the diagnostic test for HIV infection was not performed before

delivery under Subsection (c-1), the physician or other person in attendance at delivery shall:

(1) take or cause to be taken a sample of blood or other appropriate specimen from the newborn child less than two hours after the time of birth;

(2) submit the sample to an appropriately certified laboratory for a diagnostic test approved by the United States Food and Drug Administration for HIV infection; and

(3) instruct the laboratory to expedite the processing of the test so that the results are received less than six hours after the time the sample is submitted.

(i) Before conducting or causing to be conducted a diagnostic [~~standard serologic~~] test for HIV infection under this section, the physician or other person shall advise the woman that the result of a test taken under this section is confidential as provided by Subchapter F, but that the test is not anonymous. The physician or other person shall explain the difference between a confidential and an anonymous test to the woman and that an anonymous test may be available from another entity. The physician or other person shall make the information available in another language, if needed, and if resources permit. The information shall be provided by the physician or another person, as needed, in a manner and in terms understandable to a person who may be illiterate if resources permit.

(j) The result of a [~~standard~~] test for HIV infection under Subsection (a)(2)(B), (a-1), (c-1), or (c-2) [~~(c)(2)(B)~~] is a test result for purposes of Subchapter F.

(k) Before the [~~blood~~] sample is taken, the health care provider shall distribute to the patient printed materials about AIDS, HIV, hepatitis B, and syphilis. A health care provider shall verbally notify the patient that an HIV test shall be performed if the patient does not object. If the patient objects, the patient shall be referred to an anonymous testing facility or instructed about anonymous testing methods. The health care provider shall note on the medical records that the distribution of printed materials was made and that verbal notification was given. The materials shall be provided to the health care provider by the department [~~Texas Department of Health~~] and shall be prepared and designed to inform the patients about:

(1) the incidence and mode of transmission of AIDS, HIV, hepatitis B, and syphilis;

(2) how being infected with HIV, AIDS, hepatitis B, or syphilis could affect the health of their child;

(3) the available cure for syphilis;

(4) the available treatment to prevent maternal-infant HIV transmission; and

(5) methods to prevent the transmission of the HIV virus, hepatitis B, and syphilis.

(l) A physician or other person may not conduct a diagnostic [~~standard~~] test for HIV infection under Subsection (a)(2)(B), (a-1), or (c-1) [~~(c)(2)(B)~~] if the woman objects. A physician or other person may not conduct a diagnostic test for HIV infection under Subsection (c-2) if a parent, managing conservator, or guardian objects.

SECTION 7 . Sections 81.090(d), (e), (f), and (h), Health and Safety Code, are repealed.

SECTION 8 . (a) Sections 81.090(a), (c), (i), and (k),

Health and Safety Code, as amended by this Act, apply only to a test performed on or after the effective date of this Act. A test performed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) Sections 81.090(a-1), (c-1), and (c-2), Health and Safety Code, as added by this Act, and Sections 81.090(b), (j), and (l), Health and Safety Code, as amended by this Act, apply only to a physician or other person attending a pregnant woman during gestation or at delivery of an infant on or after January 1, 2010.

SECTION 9. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 10. This Act takes effect September 1, 2009.

House Bill 1795
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 1. This Act may be cited as "Greyson's Law" in memory of Greyson Morris.	Same as House version.	SECTION 1. Same as House version.
SECTION 2. Section 33.011(a-1), Health and Safety Code, is amended to read as follows: (a-1) Except as provided by this subsection and to [~~To~~] the extent funding is available for the screening, the department shall require newborn screening tests to screen for disorders listed in the core [~~uniform~~] panel and in the secondary targets of the uniform newborn screening panel [~~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 stringent [~~more appropriate~~] newborn screening guidelines to protect the health and welfare of this state's newborns. The department, with the advice of the Newborn Screening Advisory Committee, may require additional newborn screening tests under this subsection to screen for other disorders or conditions. The department may exclude from the newborn screening tests required under this subsection screenings for galactose epimerase and galactokinase.	Same as House version.	SECTION 2. Same as House version.
SECTION 3. Subchapter B, Chapter 33, Health and Safety Code, is amended by adding Section 33.017 to read as follows: Sec. 33.017. NEWBORN SCREENING ADVISORY	Same as House version.	SECTION 3. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
COMMITTEE. (a) The department shall establish the Newborn Screening Advisory Committee. (b) The advisory committee consists of members appointed by the commissioner of state health services. The advisory committee must include the following members: (1) health care providers; (2) a hospital representative; (3) persons who have family members affected by a condition for which newborn screening is or may be required under this subchapter; and (4) persons who are involved in the delivery of newborn screening services, follow-up, or treatment in this state. (c) The advisory committee shall advise the department regarding strategic planning, policy, rules, and services related to newborn screening and additional newborn screening tests. (d) The advisory committee shall adopt bylaws governing the committee's operations. (e) The advisory committee may appoint subcommittees. (f) The advisory committee shall meet at least three times each year and at other times at the call of the commissioner of state health services. (g) A member of the advisory committee is not entitled to compensation, but is entitled to reimbursement for travel or other expenses incurred by the member while conducting the business of the advisory committee, as provided by the General Appropriations Act.		

HOUSE VERSION	SENATE VERSION	CONFERENCE
(h) The advisory committee is not subject to Chapter 2110, Government Code.		
SECTION 4. (a) As soon as practicable after the effective date of this Act, the commissioner of state health services shall appoint members to the Newborn Screening Advisory Committee as required under Section 33.017, Health and Safety Code, as added by this Act. (b) Notwithstanding Section 33.011, Health and Safety Code, as amended by this Act, a physician or person attending the delivery of a newborn child is not required to subject the child to the additional newborn screening tests required under Section 33.011(a-1), Health and Safety Code, as amended by this Act, until January 1, 2010.	Same as House version.	SECTION 4. Same as House version.
No equivalent provision.	SECTION ___. The heading to Section 81.090, Health and Safety Code, is amended to read as follows: Sec. 81.090. DIAGNOSTIC [~~SEROLOGIC~~] TESTING DURING PREGNANCY AND AFTER BIRTH.	SECTION 5. Same as Senate version.
No equivalent provision.	SECTION ___. Section 81.090, Health and Safety Code, is amended by amending Subsections (a), (b), (c), (i), (j), (k), and (l) and adding Subsections (a-1), (c-1), and (c-2) to read as follows: (a) A physician or other person permitted by law to attend a pregnant woman during gestation or at delivery of an infant shall:	SECTION 6. Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE

(1) take or cause to be taken a sample of the woman's blood or other appropriate specimen at the first examination and visit;
(2) submit the sample to an appropriately certified [~~a~~] laboratory [~~approved under this section~~] for diagnostic testing approved by the United States Food and Drug Administration for:
(A) [~~a standard serologic test for~~] syphilis [~~approved by the board~~];
(B) [~~a standard serologic test for~~] HIV infection [~~approved by the board~~]; and
(C) [~~a standard serologic test for~~] hepatitis B infection [~~approved by the board~~]; and
(3) retain a report of each case for nine months and deliver the report to any successor in the case.
(a-1) A physician or other person permitted by law to attend a pregnant woman during gestation or at delivery of an infant shall:
(1) take or cause to be taken a sample of the woman's blood or other appropriate specimen at an examination in the third trimester of the pregnancy;
(2) submit the sample to an appropriately certified laboratory for a diagnostic test approved by the United States Food and Drug Administration for HIV infection; and
(3) retain a report of each case for nine months and deliver the report to any successor in the case.
(b) A successor is presumed to have complied with this section if the successor in good faith obtains a record that

HOUSE VERSION	SENATE VERSION	CONFERENCE

indicates compliance with Subsections (a) and (a-1), if applicable.

(c) A physician or other person in attendance at a delivery shall:

(1) take or cause to be taken a sample of blood or other appropriate specimen from the mother on admission for delivery; and

(2) submit the sample to an appropriately certified [~~a~~] laboratory [~~approved under this section~~] for diagnostic testing approved by the United States Food and Drug Administration for:

(A) [~~a standard serologic test for~~] syphilis [~~approved by the board~~]; and

(B) [~~a standard serologic test for HIV infection approved by the board; and~~

[~~(C) a standard serologic test for~~] hepatitis B infection [~~approved by the board~~].

(c-1) If the physician or other person in attendance at the delivery does not find in the woman's medical records results from the diagnostic test for HIV infection performed under Subsection (a-1), the physician or person shall:

(1) take or cause to be taken a sample of blood or other appropriate specimen from the mother;

(2) submit the sample to an appropriately certified laboratory for diagnostic testing approved by the United States Food and Drug Administration for HIV infection; and

(3) instruct the laboratory to expedite the processing of

HOUSE VERSION	SENATE VERSION	CONFERENCE
	the test so that the results are received less than six hours after the time the sample is submitted. (c-2) If the physician or other person in attendance at the delivery does not find in the woman's medical records results from a diagnostic test for HIV infection performed under Subsection (a-1), and the diagnostic test for HIV infection was not performed before delivery under Subsection (c-1), the physician or other person in attendance at delivery shall: (1) take or cause to be taken a sample of blood or other appropriate specimen from the newborn child less than two hours after the time of birth; (2) submit the sample to an appropriately certified laboratory for a diagnostic test approved by the United States Food and Drug Administration for HIV infection; and (3) instruct the laboratory to expedite the processing of the test so that the results are received less than six hours after the time the sample is submitted. (i) Before conducting or causing to be conducted a diagnostic [~~standard serologic~~] test for HIV infection under this section, the physician or other person shall advise the woman that the result of a test taken under this section is confidential as provided by Subchapter F, but that the test is not anonymous. The physician or other person shall explain the difference between a confidential and an anonymous test to the woman and that an anonymous test may be available from another entity. The physician or other person shall make the	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	information available in another language, if needed, and if resources permit. The information shall be provided by the physician or another person, as needed, in a manner and in terms understandable to a person who may be illiterate if resources permit. (j) The result of a [~~standard~~] test for HIV infection under Subsection (a)(2)(B), (a-1), (c-1), or (c-2) [~~(c)(2)(B)~~] is a test result for purposes of Subchapter F. (k) Before the [~~blood~~] sample is taken, the health care provider shall distribute to the patient printed materials about AIDS, HIV, hepatitis B, and syphilis. A health care provider shall verbally notify the patient that an HIV test shall be performed if the patient does not object. If the patient objects, the patient shall be referred to an anonymous testing facility or instructed about anonymous testing methods. The health care provider shall note on the medical records that the distribution of printed materials was made and that verbal notification was given. The materials shall be provided to the health care provider by the department [~~Texas Department of Health~~] and shall be prepared and designed to inform the patients about: (1) the incidence and mode of transmission of AIDS, HIV, hepatitis B, and syphilis; (2) how being infected with HIV, AIDS, hepatitis B, or syphilis could affect the health of their child; (3) the available cure for syphilis; (4) the available treatment to prevent maternal-infant HIV transmission; and	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	(5) methods to prevent the transmission of the HIV virus, hepatitis B, and syphilis. (l) A physician or other person may not conduct a diagnostic [~~standard~~] test for HIV infection under Subsection (a)(2)(B), (a-1), or (c-1) [~~(e)(2)(B)~~] if the woman objects. A physician or other person may not conduct a diagnostic test for HIV infection under Subsection (c-2) if a parent, managing conservator, or guardian objects.	
No equivalent provision.	SECTION __. Sections 81.090(d), (e), (f), and (h), Health and Safety Code, are repealed.	SECTION 7. Same as Senate version.
No equivalent provision.	SECTION __. (a) Sections 81.090(a), (c), (i), and (k), Health and Safety Code, as amended by this Act, apply only to a test performed on or after the effective date of this Act. A test performed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose. (b) Sections 81.090(a-1), (c-1), and (c-2), Health and Safety Code, as added by this Act, and Sections 81.090(b), (j), and (l), Health and Safety Code, as amended by this Act, apply only to a physician or other person attending a pregnant woman during gestation or at delivery of an infant on or after January 1, 2010.	SECTION 8. Same as Senate version.
No equivalent provision.	SECTION __. This Act does not make an appropriation. A provision in this Act that creates a new governmental	SECTION 9. Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.	
SECTION 5. This Act takes effect September 1, 2009.	Same as House version.	SECTION 10. Same as House version.
No equivalent provision.	SECTION __. Subdivision (2), Section 62.002, Health and Safety Code, is amended to read as follows: (2) "Executive commissioner" or "commissioner [~~Commissioner~~]" means the executive commissioner of the Health [~~health~~] and Human Services Commission [~~human services~~].	Same as House version.
No equivalent provision.	SECTION __. Subsection (b), Section 62.101, Health and Safety Code, is amended to read as follows: (b) The commission shall establish income eligibility levels consistent with Title XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, and any other applicable law or regulations, and subject to the availability of appropriated money, so that a child who is younger than 19 years of age and whose net family income is at or below 300 [~~200~~] percent of the federal poverty level is eligible for health benefits coverage under the program. In addition, the commission may establish eligibility standards regarding the amount and types of allowable assets for a family whose net family income is above 250 [~~150~~] percent of the federal poverty level.	Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	SECTION ___. Subsections (b) and (c), Section 62.102, Health and Safety Code, are amended to read as follows: (b) During the sixth month following the date of initial enrollment or reenrollment of an individual whose net family income exceeds 285 [~~185~~] percent of the federal poverty level, the commission shall: (1) review the individual's net family income and may use electronic technology if available and appropriate; and (2) continue to provide coverage if the individual's net family income does not exceed the income eligibility limits prescribed by Section 62.101 [~~this chapter~~]. (c) If, during the review required under Subsection (b), the commission determines that the individual's net family income exceeds the income eligibility limits prescribed by Section 62.101 [~~this chapter~~], the commission may not disenroll the individual until: (1) the commission has provided the family an opportunity to demonstrate that the family's net family income is within the income eligibility limits prescribed by Section 62.101 [~~this chapter~~]; and (2) the family fails to demonstrate such eligibility.	Same as House version.
No equivalent provision.	SECTION ___. Section 62.151, Health and Safety Code, is amended by adding Subsection (g) to read as follows: (g) In developing the plan, the commission, subject to federal requirements, may choose to provide dental benefits at full cost to the enrollee as an available plan option for a child whose net family income is greater	Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	than 200 percent but not greater than 300 percent of the federal poverty level.	
No equivalent provision.	SECTION ___. Section 62.153, Health and Safety Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-1) and (a-2) to read as follows: (a) To the extent permitted under 42 U.S.C. Section 1397cc, as amended, and any other applicable law or regulations, the commission shall require enrollees whose net family incomes are at or below 200 percent of the federal poverty level to share the cost of the child health plan, including provisions requiring enrollees under the child health plan to pay: (1) a copayment for services provided under the plan; (2) an enrollment fee; or (3) a portion of the plan premium. (a-1) The commission shall require enrollees whose net family incomes are greater than 200 percent but not greater than 300 percent of the federal poverty level to pay a share of the cost of the child health plan through copayments, fees, and a portion of the plan premium. The total amount of the share required to be paid must: (1) include a portion of the plan premium set at an amount determined by the commission that is not more than 2.5 percent of an enrollee's net family income; (2) exceed the amount required to be paid by enrollees described by Subsection (a), but the total amount required to be paid may not exceed five percent of an enrollee's net family income; and	Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	(3) increase incrementally, as determined by the commission, as an enrollee's net family income increases. (a-2) In establishing the cost required to be paid by an enrollee described by Subsection (a-1) as a portion of the plan premium, the commission shall ensure that the cost progressively increases as the number of children in the enrollee's family provided coverage increases. (c) The [~~If cost-sharing provisions imposed under Subsection (a) include requirements that enrollees pay a portion of the plan premium, the~~] commission shall specify the manner of payment for any portion of the plan premium required to be paid by an enrollee under this section [~~in which the premium is paid~~]. The commission may require that the premium be paid to the [~~Texas Department of~~] Health and Human Services Commission, the [~~Texas~~] Department of State Health [~~Human~~] Services, or the health plan provider. The commission shall develop an option for an enrollee to pay monthly premiums using direct debits to bank accounts or credit cards.	
No equivalent provision.	SECTION ___. Section 62.154, Health and Safety Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows: (d) The waiting period required by Subsection (a) for a child whose net family income is at or below 200 percent of the federal poverty level must: (1) extend for a period of 90 days after the last date on	Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	which the applicant was covered under a health benefits plan; and (2) apply to a child who was covered by a health benefits plan at any time during the 90 days before the date of application for coverage under the child health plan. (e) The waiting period required by Subsection (a) for a child whose net family income is greater than 200 percent but not greater than 300 percent of the federal poverty level must: (1) extend for a period of 180 days after the last date on which the applicant was covered under a health benefits plan; and (2) apply to a child who was covered by a health benefits plan at any time during the 180 days before the date of application for coverage under the child health plan.	
No equivalent provision.	SECTION __. Subchapter D, Chapter 62, Health and Safety Code, is amended by adding Section 62.1551 to read as follows: Sec. 62.1551. TERMINATION OF COVERAGE FOR NONPAYMENT OF PREMIUMS. (a) In this section, "lock-out period" means a period after coverage is terminated for nonpayment of premiums during which a child may not be reenrolled in the child health plan program. (b) The executive commissioner by rule shall establish a process that allows for the termination of coverage under	Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	the child health plan of an enrollee whose net family income is greater than 200 percent but not greater than 300 percent of the federal poverty level if the enrollee does not pay the premiums required under Section 62.153(a-1). (c) The rules required by Subsection (b) must: (1) address the number of payments that may be missed before coverage terminates; (2) address the process for notifying an enrollee of pending coverage termination; and (3) provide for an appropriate lock-out period after termination for nonpayment.	
No equivalent provision.	SECTION ___. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.	Same as House version.
No equivalent provision.	SECTION ___. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.	Same as House version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB1795** by Pierson (Relating to newborn screening and the creation of the Newborn Screening Advisory Committee.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1795, Conference Committee Report: a negative impact of ($4,441,103) through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	($3,945,702)
2011	($495,401)
2012	($495,401)
2013	($495,401)
2014	($495,401)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from *General Revenue Fund* 1	Probable Savings/ (Cost) from *Interagency Contracts* 777	Probable Savings/ (Cost) from *Pub Health Svc Fee Acct* 524	Probable Savings/ (Cost) from *Federal Funds* 555
2010	($3,945,702)	($350,000)	$0	($350,000)
2011	($495,401)	($1,070,066)	($1,576,276)	($1,070,066)
2012	($495,401)	($1,070,066)	($1,576,276)	($1,070,066)
2013	($495,401)	($1,070,066)	($1,576,276)	($1,070,066)
2014	($495,401)	($1,070,066)	($1,576,276)	($1,070,066)

Fiscal Year	Probable Savings/ (Cost) from *DSHS Pub Hlth Medicd Reimb* 709	Probable Revenue Gain/(Loss) from *Pub Health Svc Fee Acct* 524	Probable Revenue Gain/(Loss) from *DSHS Pub Hlth Medicd Reimb* 709	Change in Number of State Employees from FY 2009
2010	$0	$0	$0	21.0
2011	($291,836)	$1,576,276	$291,836	21.0
2012	($291,836)	$1,576,276	$291,836	21.0
2013	($291,836)	$1,576,276	$291,836	21.0
2014	($291,836)	$1,576,276	$291,836	21.0

Fiscal Analysis

Sections 1-4 require the Department of State Health Services (DSHS) to expand the newborn screening tests to screen for disorders listed in the secondary targets of the uniform newborn screening panel to the extent funding is available; it allows DSHS to screen for other disorders or conditions on the advice of the newborn screening advisory committee; and allows DSHS to exclude screenings for galactose epimerase and galactokinase. These sections also require DSHS to establish a newborn screening advisory committee to advise the department on additional newborn screening tests for other disorders.

Sections 5-8 require that a pregnant woman (who does not object) be tested for HIV in the third trimester of her pregnancy. If, at labor and delivery, the woman had not been tested in the third trimester, the physician (or other health care provider as specified by the bill) shall request an expedited HIV test for the woman (who does not object) that must be completed within 6 hours. If the woman gave birth to a child and the woman had not received HIV testing at either her third trimester or at labor and delivery, the physician shall order an expedited HIV test for the newborn child (whose parent, managing conservator, or guardian does not object) that must be completed within 6 hours of delivery. Sections 81.090 (d), (e), (f) and (h) of the Health and Safety Code, related to approved laboratories, are repealed.

Section 9 specifies that the bill does not make an appropriation and that any provision of the bill that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

Methodology

Section 2 of the bill expands newborn screening to include the additional disorders listed in the secondary targets of the uniform newborn screening panel recommended in the American College of Medical Genetics; according to DSHS this includes 24 additional disorders including cystic fibrosis. This does not include galactose epimerase or galactokinase; the cost of which to implement would be approximately an additional $1.2 million for the biennium.

According to DSHS, in order to implement the additional 24 disorders, the agency will need to upgrade the laboratory information management system, to include, laboratory and case management software and functionality at a one-time cost of $368,600.

DSHS also indicates that 11 new laboratory staff would be needed to implement the new screenings; these include 10 new positions specifically for cystic fibrosis. There would be additional expenses associated with the new positions such as specialized training, laboratory supplies and personal protective gear.

There would be an approximate $1.4 million All Funds cost per year for reagents and consumables associated with cystic fibrosis screenings.

It is also assumed that DSHS would need to hire 9 new case management/follow-up program FTEs to implement testing of the new disorders, including four Nurse III positions; four Public Health Technicians; and one Manager I. DSHS also indicates that the new case management staff would need specialized training and the fiscal estimate also assumes all other standard operating costs associated with the new FTEs.

In order to educate health care providers on the 24 additional disorders screened, DSHS estimates the need for 500,000 brochures at $0.10 a brochure for a total cost of $50,000, a one-time cost in fiscal year 2010. It is also assumed that the DSHS website needs to be updated to provide information on the additional disorders at a one-time cost of $2,000.

In addition to these costs DSHS also indicates an annual cost of $315,600 representing the total cost of diagnostic testing and treatment of uninsured children. This is a service currently provided by the newborn screening division that's statutorily required. The agency estimates that given the 24 new

disorders, 75 of the approximately 430,000 babies screened each year would be uninsured and test positive for a disorder.

Section 3 of the bill requires DSHS to establish a newborn screening advisory committee to advise the department on additional newborn screening tests for other disorders. It is assumed that DSHS would need to hire an additional FTE, a Program Specialist IV at $55,762 a fiscal year to provide professional and administrative support to the committee. The bill also provides that the advisory committee members are entitled to be reimbursed for travel and other expenses incurred while conducting the business of the advisory committee. Assuming the advisory committee had 10 members meeting 3 times a year, with one member residing in Austin, the total estimated costs for reimbursement are $16,845 a fiscal year. The bill only provides the authority for the advisory council members to be reimbursed; language must be included in the 2010-11 General Appropriations Act to ensure the appropriation of the reimbursement funds associated with the new advisory council.

According to DSHS 54% of the newborn screenings are covered by Medicaid, 35% by private pay (third party payors) and 11% are covered by General Revenue since these represent uninsured babies. Given this method of finance breakdown this fiscal estimate assumes for FY 2011 through FY 2014, 54% of the costs associated with the screenings for the additional disorders and the costs associated with the advisory council ($2,431,969) will be covered with Medicaid funds, the Medicaid laboratory costs will be covered by Account 709, Public Health Medicaid Reimbursements and the case management costs will be covered by an Interagency Contract (IAC) with HHSC and an associated Federal Funds match; 35% of the costs ($1,576,276) representing laboratory, case management, and advisory council costs will be covered by private third party payors out of General Revenue-Dedicated Fund 524 – Public Health Service Fee Account; and the remaining 11% ($495,401) will be funded out of General Revenue Funds. All of these estimates assume that costs remain at the same level in each fiscal year.

According to DSHS, General Revenue Funds will be required to cover all laboratory and advisory council costs in FY 2010 due to a lag in the time it takes to start receiving Medicaid reimbursements and payment from private pay providers. Medicaid case management costs, approximately $700,000 are covered in FY 2010 through the IAC with HHSC and federal matching funds. A portion of the IAC costs and Account 709, Public Health Medicaid Reimbursements costs are funded through General Revenue expenditures at HHSC; it is assumed that HHSC can absorb these costs.

The fiscal estimate also assumes that DSHS will access the necessary fees charged to both Medicaid and the third party payors to cover all costs associated with the screenings for the additional disorders.

Sections 5-8: DSHS assumes any cost associated with implementing these provisions can be absorbed within existing resources.

Technology

PCs will be required for all new staff. Standard cost is associated with each FTE. Additional capital authority will be required. Upgrade of the laboratory information management system, to include, laboratory and case management software and functionality ($368,600, one-time cost for FY 10) is required.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, CL, LR, PP, JF

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H.B. 1795 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.

Paula Pierson
(name)

5-30-09
(date)

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