

SUBJECT: Prohibiting bans on videotaping the delivery of a child

COMMITTEE: Public Health — favorable, without amendment

VOTE: 7 ayes — Gray, Coleman, Capelo, Longoria, Maxey, Uresti, Wohlgemuth
0 nays
2 absent — Delisi, Glaze

WITNESSES: For — None
Against — None
On — *Registered but did not testify:* Rebecca Berryhill and John Evans, Texas Department of Health

BACKGROUND: Title 3 of the Occupations Code provides for licensing of health professionals. Sec. 101.251 establishes a civil penalty for violations of the licensing law for health professionals as a \$1,000 fine for each violation.

DIGEST: HB 1719 would add ch. 168 to the Health and Safety Code to prohibit bans on audio or videotaping the delivery of a child. A health care provider, hospital, or birthing center would not be allowed to prohibit a person from using a recording device to record the delivery of a child.

A violation of this chapter would be subject to the same penalty as a violation of the licensing law applicable to the individual or organization or a rule adopted under the licensing law.

The bill would take effect September 1, 2001.

SUPPORTERS SAY: HB 1719 would ensure that families were able to preserve on film or tape the delivery of a child. For most people, the delivery of a child is a once or twice in a lifetime event. A videotaping of the event could capture a special moment or could be sent to loved ones who were not present. For whatever reason they chose, parents should be able to videotape the delivery of their child.

As long as health professionals acted professionally and responsibly, then the record of a videotape could be an asset. For example, in one recent high profile case in Texas, the family's videotape of the birth was used to support the family's action against the delivering physician. In other cases, the videotape could support the physician. Complications could arise, but if a health professional acted appropriately, then the video evidence would support that.

Allowing videotaping would not promote frivolous lawsuits. Individuals who were unhappy with an outcome and took action against the health professional would use whatever evidence exists, including sworn testimony, written testimony, and physical evidence. The presence or absence of a videotape would not determine whether someone sued or not.

**OPPONENTS
SAY:**

HB 1719 would encourage frivolous lawsuits. Complications during birth could arise, which to the untrained eye may seem to be the health professional's fault. It could take a health professional many months with a lawyer to clear up such a matter. Also, hospitals sometimes will settle in cases in which they are not at fault just because it would cost more to defend themselves in an action.

Patients have choices about where to have their children. Delivering a child is one situation where patients have many different options. If patients did not agree with a no-taping policy, they could go elsewhere.

Video cameras are a nuisance and have no place in the delivery room. Individuals taping the birth of their child have no peripheral vision, which can make them dangerous in the delivery room.