

## **BILL ANALYSIS**

Senate Research Center  
81R2337 ALB-D

S.B. 286  
By: Nelson  
Health & Human Services  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Health and Human Services Commission (HHSC) is required under the Deficit Reduction Act and the Texas Government Code to improve efficiency of the Medicaid program. An electronic medical record system is more easily accessible than a paper medical record, is more accessible to more health care providers, can reduce medical errors, and reduces the need for duplicative copies of records.

S.B. 286 will improve the management of the Medicaid program and quality of care by requiring HHSC to expand the use of the health passport (an electronic medical record) to the entire acute care Medicaid managed care population within 5 years.

As proposed, S.B. 286 requires HHSC to develop and provide a health passport for each person receiving medical assistance under the state Medicaid program through a managed care plan by September 1, 2014. S.B. 286 sets forth the requirements for the health passport system.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 531.096, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.096, as follows:

Sec. 531.096. HEALTH PASSPORT. (a) Requires the Health and Human Services Commission (HHSC), with the assistance of physicians and other health care providers experienced with the use of electronic health records, to develop and provide a health passport for each person receiving medical assistance under the state Medicaid program through a managed care plan, as defined by Section 533.001 (Definitions) and is not provided a health passport under another law of this state.

(a-1) Provides that HHSC is not required, notwithstanding Subsection (a), to provide a health passport for each person described by that subsection until September 1, 2014. Requires HHSC, beginning as soon as feasible after September 1, 2009, to provide a health passport to each child entitled to a health passport under Subsection (a), or if initial provision of health passports to all children is impossible, to selected categories of children. Requires HHSC, thereafter, at intervals occurring as soon as possible, to expand the provision of health passports to additional children and finally to adults. Provides that this subsection expires September 1, 2014.

(b) Requires that information that is accessible through the health passport provided under this section be maintained in an electronic format that uses HHSC's existing computer resources to the greatest extent possible.

(c) Requires the executive commissioner of HHSC (executive commissioner) to adopt rules specifying the information required to be included in the health passport. Authorizes the required information to include certain identifying and medical information.

(d) Requires that the system used to access the health passport be secure and maintain the confidentiality of the person's health records. Requires the covered entity, to the extent that this section authorizes the use or disclosure of protected health information by a covered entity, as those terms are defined by the privacy rule of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, to ensure that the use or disclosure complies with all applicable requirements, standards, or implementation specifications of the privacy rule.

(e) Requires HHSC to provide training or instructional materials regarding use of a health passport to adults who receive health passports, parents, guardians, and caretakers of children who receive health passports, physicians, and other health care providers.

(f) Requires HHSC to make health passport information available in printed and electronic formats to certain individuals when a person loses eligibility for Medicaid, unless HHSC is required to provide a health passport under another program.

(g) Requires HHSC to coordinate the health passports and procedures adopted for the Medicaid program under this section with the health passport and procedures adopted under Section 266.006 (Health Passport), Family Code, for a child in the foster care system to ensure that a child's health passport is transferable between the Medicaid program and that system.

SECTION 2. Amends Section 32.102(b), Human Resources Code, as added by Chapter 268 (S.B. 10), Acts of the 80th Legislature, Regular Session 2007, as follows:

(b) Authorizes HHSC, if the executive commissioner determines that a need exists for the use of health information technology in the medical assistance program and that the technology is cost-effective for the purposes prescribed by Subsection (a), to evaluate the feasibility of developing and, if feasible, develop, the technology through the use or expansion of other systems or technologies HHSC uses for other purposes, including a health passport developed under Section 266.006, Family Code, or Section 531.096, Government Code, for persons receiving medical assistance not provided a health passport under either of those provisions. Makes nonsubstantive changes.

SECTION 3. Requires HHSC, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes delay of implementation until such waivers or authorizations are granted.

SECTION 4. Effective date, except as otherwise provided by this Act: September 1, 2009.