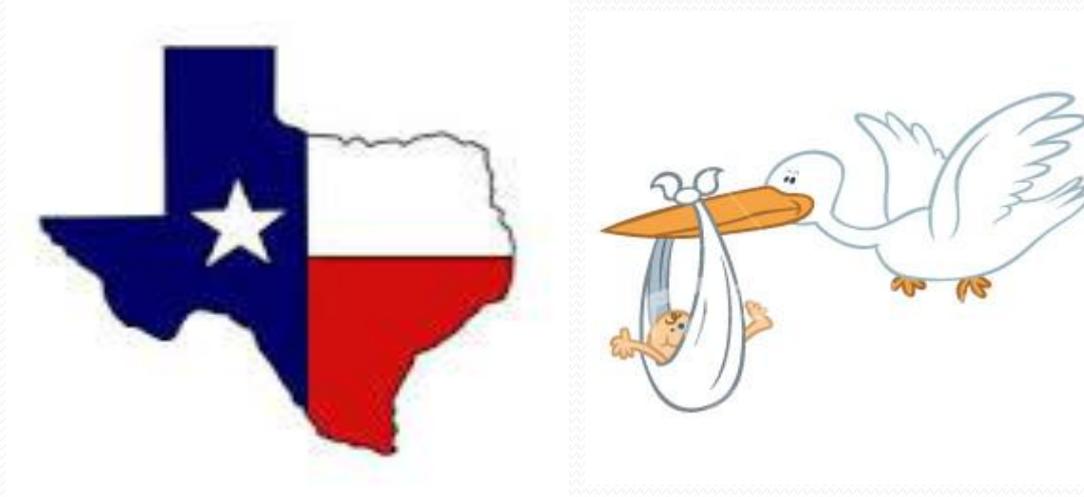


# Birth Statutes



2014 Regional Conference  
Mike McNutt

# Discussion Points

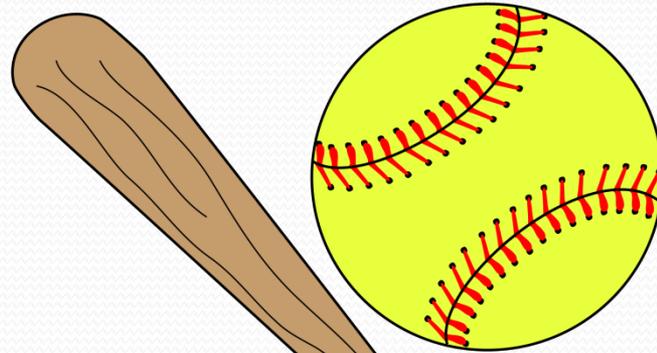
- Birth Statutes
- Befuddle the Birth Clerk
- Hospital Site Visits/5 Star Award





The Birth of Each Child Born In This State Shall Be Registered. **HSC 191.001**

Except as provided by subsection (e), a person required to file a birth certificate or report a birth shall file the certificate or make the report not later than the **5th** day after the date of the birth. **HSC 192.003 (d)**

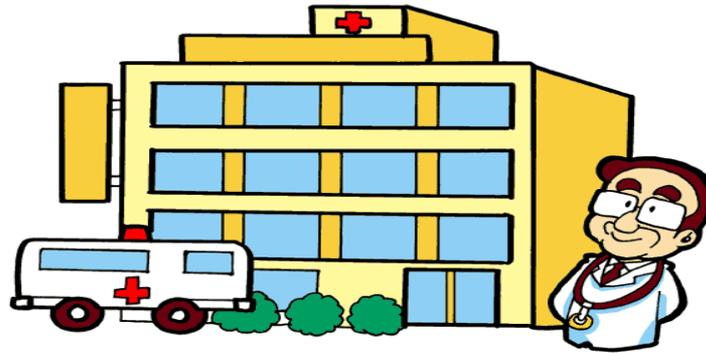


## **Live Birth—**

The complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which, after such separation, breathes or shows any other evidence of life such as **beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles**, whether or not the umbilical cord has been cut or the placenta is attached; each product of such a birth is considered live born.

**TAC 181.1 Definitions (17)**

# Licensed Institutional Births



## hospital

- Births occurring in a licensed institution shall be filed as required by the Health & Safety Code, 192.003 . Licensed institutions include hospitals and birthing centers licensed by the department.  
**TAC 181.26 (a) (1)**
- If a birth occurs in a hospital or birthing center, the hospital administrator, the birthing center administrator, or a designee of the appropriate administrator may file the birth certificate in lieu of a person listed by subsection (a).

**HSC 192.003 (b)**

# Licensed Institutional Births

- The responsibilities of the person registering a birth at a licensed institution include:
  - Obtain information needed for completion of the birth certificate
  - Complete a certificate of birth for each live birth that occurs at the hospital or en route to the hospital
  - If the parents are not married to each other, provide the father with the opportunity to complete an AOP and the required oral and written notification of rights and responsibilities
  - Inform the parents that they may request an application for child support services by calling the OAG at 1-800-252-8014.
  - Review the certificate and AOP if applicable, for completeness and accuracy and fax into VSU at 1-888-561-3138
  - Obtain the appropriate parents signatures on the verification of birth facts

**Birth Registration Handbook pg. 3**

# Non-Institutional Births

## TAC 181.26 (c)

- The essential elements (proofs) to register a non-institutional birth are:
  - **(1) Evidence of pregnancy**
    - Prenatal record
    - Statement from physician or health care provider
    - Home visit by a public health nurse or health care provider
    - Other evidence acceptable to the Local Registrar
    - Notarized affidavit with photo ID
  - **(2) Evidence that there was an infant born alive**
    - Statement from physician or health care provider who saw or examined the infant
    - Observation of the infant during a home visit by a public health nurse
    - Other evidence acceptable to the Local Registrar
    - Notarized affidavit with photo ID
  - **(3) Evidence that the birth occurred in the registration district**
    - Live birth occurred in mother's residence
      - Utility bill, telephone bill, rent receipt, DL, envelope with address, or notarized affidavit
    - Live birth occurred outside of mother's residence
      - Notarized affidavit with photo ID from person with knowledge of the mother's presence in the registration district on the date of birth
  - **(4) Evidence that the infant's birth occurred on the date stated.**
    - Medical record or notarized affidavit



# Timeliness

- Delay less than 1 year
  - The local registrar **may require evidence to substantiate the facts of the birth** and **may require a statement explaining the delay in filing the birth certificate**. The local registrar may accept the certificate for filing if the evidence required by the local registrar is submitted.

**HSC Sec. 192.021 (b)**
- Delay Of More Than 1 but less than 4 Years
  - **The State Registrar may require evidence to substantiate the facts of the birth** and may require a statement explaining the delay in filing the birth certificate. The State Registrar may accept the certificate for filing if the evidence required by the State Registrar is submitted. **HSC Sec. 192.023 (b)**



# En Route Birth



- If the mother is en route to the hospital when the child is born and the hospital is the first place where the child is removed from the conveyance, “en route” should be indicated within TER.
- If the child was not first removed from the conveyance at the hospital, the birth record should be filed with the Local Registrar by the parents.

# Foundlings



- (a) A designated emergency infant care provider shall, without a court order, take possession of a child who appears to be 60 days old or younger if the child is voluntarily delivered to the provider by the child's parent and the parent did not express an intent to return for the child. **TFC Sec.262.302**

# Foundlings Continued

- (b) A designated emergency infant care provider who takes possession of a child under this section has no legal duty to detain or puse the parent and may not do so unless the child appears to have been abused or neglected. The designated emergency infant care provider has no legal duty to ascertain the parent's identity and the parent may remain anonymous. However, the parent may be given a form for voluntary disclosure of the child's medical facts and history.
- (c) A designated emergency infant care provider who takes possession of a child under this section shall perform any act necessary to protect the physical health or safety of the child. The designated emergency infant care provider is not liable for damages related to the provider's taking possession of, examining, or treating the child, except for damages related to the provider's negligence.

# Gestational Agreements- TFC, Sec.160.753



- Notwithstanding any other provision of this chapter or another law, the mother-child relationship exists between a woman and a child by an adjudication confirming the woman as a parent of the child born to a gestational mother under a gestational agreement if the gestational agreement is validated under this subchapter or enforceable under other law, regardless of the fact that the gestational mother gave birth to the child.
- The father-child relationship exists between a child and a man by an adjudication confirming the man as a parent of the child born to a gestational mother under a gestational agreement if the gestational agreement is validated under this subchapter or enforceable under other law.

# Gestational Agreements Continued-

## TFC, Sec.160.754

- (a) A prospective gestational mother, her husband if she is married, each donor, and each intended parent may enter into a written agreement providing that:
  - (1) the prospective gestational mother agrees to pregnancy by means of assisted reproduction;
  - (2) the prospective gestational mother, her husband if she is married, and each donor other than the intended parents, if applicable, relinquish all parental rights and duties with respect to a child conceived through assisted reproduction;
  - (3) the intended parents will be the parents of the child; and
  - (4) the gestational mother and each intended parent agree to exchange throughout the period covered by the agreement all relevant information regarding the health of the gestational mother and each intended parent.
- (b) The intended parents must be married to each other. Each intended parent must be a party to the gestational agreement.
- (c) The gestational agreement must require that the eggs used in the assisted reproduction procedure be retrieved from an intended parent or a donor. The gestational mother's eggs may not be used in the assisted reproduction procedure.
- (d) The gestational agreement must state that the physician who will perform the assisted reproduction procedure as provided by the agreement has informed the parties to the agreement of:

# Acknowledgment Of Paternity

## Health & Safety Code 192.012

- If the mother of a child is not married to the father of the child, a person listed in section 192.003 who is responsible for filing the birth certificate shall:
  - (1) Provide an opportunity for the child's mother and putative father to sign an acknowledgment of paternity as provided by subchapter c, ch. 160, family code; and
  - (2) Provide oral and written information to the child's mother and putative father about:
    - (A) Establishing paternity, including an explanation of the rights and responsibilities that result from acknowledging paternity; and
    - (B) The availability of child support services.

# AOP Continued

## Entities That Shall Provide

- (1) all public and private birthing hospitals;
- (2) all birthing centers;
- (3) the Texas Department of State Health Services, Vital Statistics Unit; and
- (4) a registered nurse working in a partnership program funded through the nurse-family partnership competitive grant program under Chapter 531, Subchapter M, Texas Government Code.

**TAC 55.406 (a)**



# A Certified Entity Must:

- Give the parents the opportunity to sign an AOP
- Oral & Written Information on the rights & responsibilities
- Explanation of these rights
- Availability of Child Support Services



# Fetal Death (Stillbirth)

- Death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such separation, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

**TAC 181.1 Definitions (10)**

# How do we file Fetal Deaths?

- (a) A certificate of fetal death shall be filed for any fetus weighing 350 grams or more, or if the weight is unknown, a fetus aged 20 weeks or more as calculated from the start date of the last normal menstrual period to the date of delivery.
- (b) A certificate of fetal death shall be considered properly filed:
  - (1) when all of the items thereon have been satisfactorily and definitely answered; and
  - (2) when the certificate has been presented for filing to the local registrar of the registration district in which the fetal death (stillborn) occurred or the fetus was found. A certificate of fetal death (stillbirth) shall be filed with the local registrar within five days after the date of fetal death (stillbirth).

**TAC 181.7**



- If weight is known, you must use the weight, NOT the gestational age.
  - If the fetus is 350 grams or more, a certificate is required.
  - If the fetus is under 350 grams, a certificate is not required.
- If the weight is unknown, go by gestational age.
  - If the age is 20 weeks or more, a certificate is required.
  - If the age is under 20 weeks, a certificate is not required.

# Birth Certificate Requested? (Stillbirth)

- Can the parents request a birth certificate?
- How does the parent move this request forward?

(c) That a parent may, but is not required to, request the preparation of a certificate of birth resulting in stillbirth;

(d) That a parent may obtain a certificate of birth resulting in stillbirth by contacting the bureau of vital statistics to request the certificate and paying the required fee;

**HSC Sec. 192.0022**

# Diacritical Marks

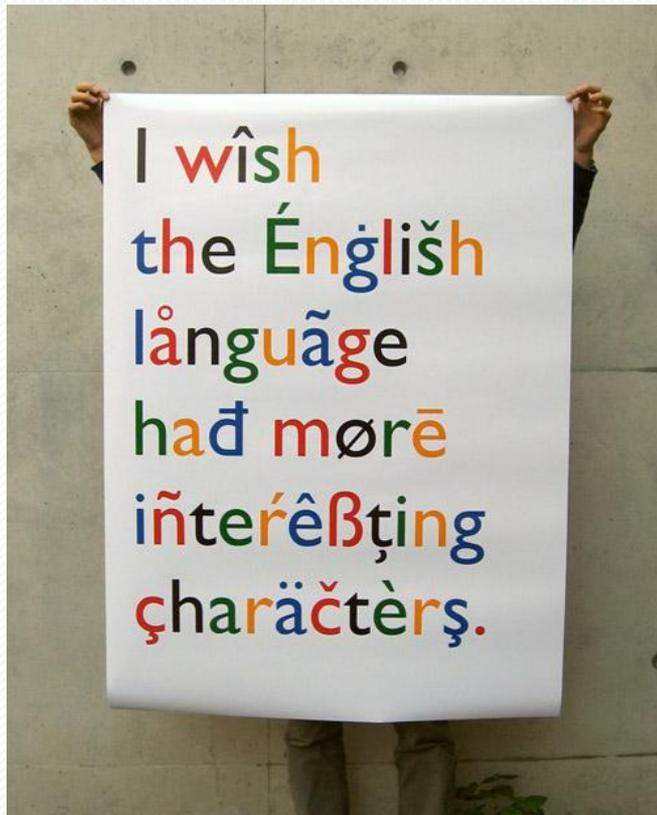
- The department shall prescribe the form and contents of the birth certificate. **HSC Sec. 192.002(a)**

The Vital Statistics Unit does not allow for “special characters” i.e characters with diacritical marks in TER. This is against VSU policy and it violates our compliance with federal standards.



**1987**

# Diacritical Marks



# Befuddle the Birth Clerk



PHOTO: THINKSTOCK

# Question # 1

A mother gives birth at her home. She is transported to the hospital using a hospital vehicle afterwards. Who files the record?

# Answer # 1

Statute: TAC Title 25 181.1 Definitions (19) –

**Non-institutional Birth** – A birth occurring outside a hospital or birthing center licensed by the Department of State Health Services.

TAC 181.26 (h) –A birth as described in subsection c of this section shall only be filed upon personal presentation of the following evidence by the individual responsible for the preparation and registering of the certificate.

## Question # 2

The parents are from a foreign country and want to represent their culture with accent marks on their babies birth certificate. Is that allowable?

# Answer # 2

No.

Handbook for Birth Registration in TER - General Tab 1 – Child’s Current Legal Name – Special characters that are used in languages other than English are not permitted.

# Question # 3

A birth certificate is a confidential record. It is closed from public access for 50 years. True or False?

# Answer # 3

False.

TAC Rule 181.23 (b) (2)

A general birth index is public information and available to the public to the extent the index relates to a birth record that is public on or after the **75<sup>th</sup> anniversary of the date of birth** as show on the record unless the fact of an adoption or paternity determination can be revealed or broken or if the index contains specific identifying information relating to the parents of the who is the subject of an adoption placement.

# Question # 4

The parents cannot come up with a name for their newborn baby. The hospital should allow the parents time to do so & hold off on filing the record.

# Answer # 4

Based on a parent's religious beliefs, a parent may request that a person required to file a birth certificate or report a birth delay filing the certificate or making the report until the parent contacts the person with the child's name. If a parent does not name the child before the fifth day after the date of the birth due to the parent's religious beliefs, the parent must contact the person required to file the birth certificate or report the birth with the name of the child as soon as the child is named. A person required to file the birth certificate or report the birth who delays filing the certificate or making the report in accordance with the parent's request shall file the certificate or make the report not later than the 15<sup>th</sup> day after the date of the child's birth.

**HSC Sec. 192.003 (e)**

The Birth Clerk should move the record forward to be filed by placing "infant" in the first name field.

# Question # 5

An amendment can be done to add a fathers name?

# Answer # 5

No, it cannot.

An application to Amend Certificate of Birth (VS-170) may be used in requesting completion of any item left blank on the original birth certificate or to correct any errors made during the completion of the original record, except information relating to paternity. See information on completing the Application for a New Birth Certificate based on Parentage (VS-166)

Handbook for Birth Registration in TER

# Question # 6

Two parents of one gender orientation (mother-female, father-female) may be listed on the child's birth certificate if they are legally married in **another state** and present the marriage license to the hospital.

# Answer # 6

False.

A license may not be issued for the marriage of persons of the same sex.

Texas Family Code 2.001(b)

# Question # 7

A baby is born at 18 weeks, weighing 170 grams. The baby lives for a short time and then expires. A birth certificate and a death certificate should be completed for the baby.

# Answer # 7

True.

In order to file a birth record in TER the hospital would need to record the minimum weight allowed which is **227 grams**. Once the record is released to the state send an email to the TER Help-Desk requesting that the weight on the birth record be changed to reflect the correct weight of 170 grams.

# Question # 8

A baby goes to full term but is born dead (stillbirth). Since the death occurred at the hospital the birth registrar should file the fetal death record in TER.

# Answer # 8

No.

The fetal death registration is a fully manual process. The hospital would need to use the state registration form (pink) to manually register the fatal death. If arrangements are made for a funeral home to take possession of the remains, then the funeral home would register the fetal death record.

# Question # 9

Which, if any, of the below names could be correctly entered into TER as a birth record?

Benjamin Green-Ellis

Macy Mae Jiménez

# Answer # 9

First name yes.

Second name no.

# Question # 10

Why is it important to have accurate and complete information on the birth record?

# Answer # 10

A person's birth certificate is the first legal document identifying that person. The information on the birth record will effect any future documentation for that person.

The statistical data provides insight into health trends and issues and allows justification for funding and development of programs to improve birth outcomes.

# Birth Registrar Certification



## Birth Registrar Certification



[www.texasvsu.org](http://www.texasvsu.org)

## Certification Requirements

- The person required to register the birth of a child in this state must meet the requirements of the birth registrar certification.

**TAC 181.50**

- **Certification Required.** A birth registrar may not complete any aspect of the birth registration process without holding a current certification issued by the Vital Statistics Unit.”

**TAC 181.52 (a)**

# Birth Certification Process

**b) Certification Process.** Certification for Birth Registrars **requires** the completion of the following:

1. Acknowledgment of Paternity training course;
2. TER--Birth Registration online training course;
3. be a TER user with an individual User Identification and password;
4. oath of confidentiality (on file at facility);
5. a completed Application for Birth Registrar Certification/Re-certification; and
6. physicians, midwives or persons acting as midwives must provide current licensing information with their respective licensing bodies.

**TAC 181.52 (b)**

# Re-Certification Process

- Birth registrars who actively register births in this state are required to obtain **8** hours of continuing education every two-year renewal period.
- Birth registration process occurring at facilities or by midwives may be inspected upon the submission of an Application for Birth Registrar Certification/Re-certification.

**TAC 181.52 (c)(e)**

# Continuing Education

- Electronic Registration - 1 credit hours. This course must at least cover principals of electronic birth registration for this state.
- Other training - 7 credit hours. These approved courses should cover laws, rules, best practices, policies and procedures relevant to the registration of births in this state. **TAC 181.53 (a) (b)**
- VSU will have online classes as well as in person classes at the Regional and Annual Conferences
- You will receive 6 hours of CEUs for attending this conference.

# Continuing Education Cont.

- It is the responsibility of the licensee to track the number of hours accumulated during a certification period.
- Failure to comply. The Vital Statistics Unit will not renew the certification of an individual who fails to obtain the continuing education requirements of this section.
- Any birth registrar receiving credit for continuing education obtained fraudulently shall be reported and/or investigated by the State Registrar or the State Registrar's representative and, if necessary, shall report a violation of this section to the appropriate district or county attorney for prosecution.

**TAC 181.53(3) (4) (5)**

# Hospital Site Visits

- Area Field Reps visit with you & your staff at your location, on site.



12sp0462rf [RF] © www.visualphotos.com

# What can you expect?

Be prepared to show the below:

- TER TIMELINESS REPORT
- DATA QUALITY REPORT
- TER USERS
- WHO IS BRC CERTIFIED?

FACILITY INFORMATION  
TRAINING DOCUMENTATION  
RESOURCES  
PROCEDURES

# FIELD SERVICES

## **Mission**

- **DSHS** - To improve health and well-being in Texas.
- **VSU** - To collect, protect and provide access to vital records and vital records data to improve the health and well being in Texas.
- **Field Services** - To represent VSU through monitoring, training and communications to support the collection, protection and access to vital records and vital records data to improve the health and well being in Texas.

# TEAM

**Susanna Sparkman** – South Texas (Region 8 & 11)

[susanna@texasvsu.org](mailto:susanna@texasvsu.org)

512/776-6567

**Derek Johnson** – East Texas (Region 5S & 6)

[derek@texasvsu.org](mailto:derek@texasvsu.org)

512/776-2530

**Mike McNutt** – North West Texas (Region 1, 9 & 10)

[mike@texasvsu.org](mailto:mike@texasvsu.org)

512/776-2580

**Soo Teal** – Dallas Metro-Plex (Region 2 & 3)

[soo@texasvsu.org](mailto:soo@texasvsu.org)

512/776-2534

**Gracie Zeigler** – Central East Texas (Region 4, 5N & 7)

[gracie@texasvsu.org](mailto:gracie@texasvsu.org)

512/776-3651

**Victor Farinelli** – Manager

[victor@texasvsu.org](mailto:victor@texasvsu.org)

512/776-7368

**FAX LINE**

512/776-7538

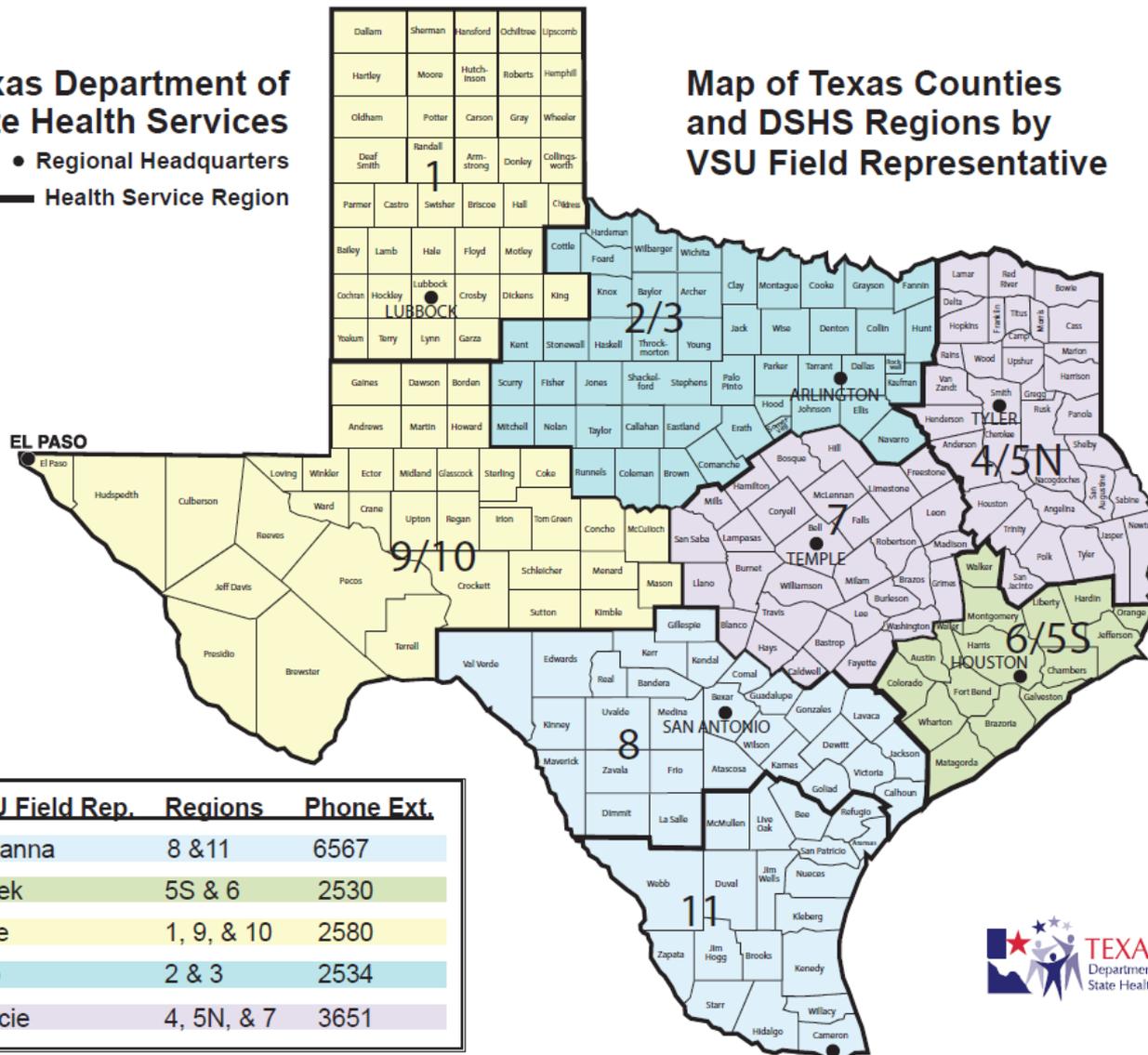
**WEBSITE**

[www.texasvsu.org](http://www.texasvsu.org)

# Texas Department of State Health Services

- Regional Headquarters
- Health Service Region

## Map of Texas Counties and DSHS Regions by VSU Field Representative



VSU Field Rep.	Regions	Phone Ext.
Susanna	8 & 11	6567
Derek	5S & 6	2530
Mike	1, 9, & 10	2580
Soo	2 & 3	2534
Gracie	4, 5N, & 7	3651



