

**SUBJECT:** Increasing childhood immunization awareness

**COMMITTEE:** Public Health — favorable, without amendment

**VOTE:** 9 ayes — Capelo, Laubenberg, Coleman, Dawson, McReynolds, Naishtat, Taylor, Truitt, Zedler

0 nays

**WITNESSES:** For — *(Registered, but did not testify:)* Tom Banning, Texas Academy of Family Physicians; Julie Boom, M.D., Texas Children's Hospital Texas Pediatric Society; Melody Chatelle, Children's Hospitals and Related Institutions (CHARIOT), Texas Classroom Teachers Association; Robert Feather, Cook Children's Health Care System; Aron Head, Amerigroup Texas Inc.; Greg Hoke, Wyeth Vaccines; Susan Hopkins Craven, Texans Care for Children; Holly Jacques, Merck & Co. Inc.; Mazie Jamison, Children's Medical Center of Dallas; Carrie Kroll, Texas Pediatric Society; Gaspar Laca, Glaxo Smith Kline; Frankie Milley; Jane Penrod; Elizabeth Sjoberg, Texas Hospital Association; Bryan Sperry, Children's Hospital Association of Texas; Rosie Valadez McStay, Texas Children's Hospital; James Willmann, Texas Nurses Association; Lynda Woolbert, Coalition for Nurses in Advanced Practice; Ana Yanez-Correa, LULAC Texas

Against — Dawn Richardson, Parents Requesting Open Vaccine Education (PROVE). *(Registered, but did not testify:)* MerryLynn Gerstenschlager, Texas Eagle Forum; Allison Hill; James King; Jim Wilson.

On — *(Registered, but did not testify:)* Phyllis Coombes and Cathryn Cox, Comptroller of Public Accounts; Sharilyn Stanley, M.D., Texas Department of Health

**BACKGROUND:** The Texas Department of Health (TDH) participates in the federal Vaccines For Children Program, which began in 1994. The program provides free vaccines to health care providers for children of families that lack sufficient insurance coverage for early childhood immunizations and cannot pay for them. When parents go to a health care provider to have a child vaccinated, they receive written information about the vaccine.

TDH is part of the Texas Immunization Partnership, which includes representatives from medical groups, consumer organizations, parents, pharmaceutical companies, and other interested parties. The partnership developed a state plan for increasing childhood immunization rates in Texas, identified barriers, and provided recommendations for improvement, including improving ImmTrac, the statewide immunization registry for children from birth to age 18.

Health and Safety Code, ch. 161, subch. A, governs immunizations. Sec. 161.007 requires TDH to keep an immunization registry and requires health care providers to give TDH information about immunizations given to people under the age of 18. Sec. 161.001 exempts a person from liability for administering or authorizing a required vaccine, unless the vaccine is administered negligently. Sec. 161.007(g) exempts a person from civil liability for properly submitting immunization history or data to the registry, and sec. 161.008 describes the immunization record and authorized uses for the data. Under Sec. 161.009, a person can be held criminally liable for negligently releasing or disclosing information in the database for an unauthorized use or using the information to solicit new patients or clients.

**DIGEST:**

HB 1926 would add sec. 161.010 to the Health and Safety Code, requiring TDH to develop and maintain partnerships with public and private entities to increase public awareness and support around early childhood immunizations. It would require TDH to work with the Texas Education Agency (TEA) to increase immunization awareness and participation among pre-school and school age children. TEA and TDH would be required to apply for federal funding to pay for these programs as well as partner with public and private organizations, such as parents' groups, schools, and others, to increase statewide awareness and participation.

The bill would protect a health care provider who acted in compliance with the immunization registry laws and rules from criminal and civil liability for furnishing the information required. It would not exempt them from liability for furnishing information as prohibited under Sec. 161.009. Providers would not be liable for administering a vaccine under the state program, unless they would have been liable if they had administered the vaccine outside of the program.

HB 1926 also would require certain state agencies to incorporate public awareness for childhood immunizations into their strategic plans. This would apply to agencies, to be identified by TDH, that had contact with Texas families either by telephone, mail, or the internet.

The bill would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

HB 1926 would help TDH improve vaccination rates. Texas consistently ranks near the bottom in rates of immunization for children under two years of age — 42nd among states according to 2001 National Immunization Survey (NIS) data. Texas has a long way to go in improving vaccinations, but this bill would be a big step in the right direction.

From a public health standpoint, Texas has a compelling interest in raising childhood immunization rates. Diseases such as polio once were commonplace, but they have been virtually eradicated due to widespread programs of immunization. Such programs only work, however, when participation in them is universal. If significant numbers of parents opt their children out of such programs, it could allow crippling and potentially fatal illnesses, such as polio, to regain prevalence in Texas.

Side effects to immunizations are uncommon and generally mild, and clinical evidence linking immunizations to autism is extremely thin. Parents need to know the facts about immunizations and take steps to protect their children — and all the children of Texas — by ensuring that their kids receive the schedule of immunizations offered through TDH and recommended by respected medical societies such as the American Academy of Pediatrics.

Another factor behind the state's lackluster immunization rates is the reluctance of providers to participate in the program because of concerns about liability. This bill appropriately would limit the liability of health care providers who administer approved vaccines, which is necessary to encourage their participation. Providers should not have to worry about being sued for the correct administration of a vaccine that occasionally causes a reaction, usually mild, among children. Additionally, providers should not be saddled with liability for adding information on children vaccinated to the registry when parents consented to this. The bill would not grant liability to a person who negligently released or disclosed immunization registry information, nor

would it protect providers who truly were negligent. It is only right that providers complying with and participating in a state program enjoy the same limit on liability that they would receive in vaccinating children outside of the program.

Requiring TDH and TEA to partner on improving early childhood immunizations is a good idea because it would involve child care providers in the public awareness process. This would increase the immunization rate among children that were not of school age, helping to ensure that all Texas children enter school healthy and ready to learn and increasing disease prevention in the general population.

The immunization information distributed to parents is geared deliberately to a sixth-grade reading level. This is standard practice in any public awareness health campaign because it would be inappropriate to assume a higher level of education among a target population of millions, such as parents in Texas. People with questions or concerns about the information they receive are encouraged to seek answers from a health care provider or a reputable organization that offers reliable information on immunizations, such as the Texas Pediatric Society or the American Academy of Pediatrics.

Federal funds to conduct public health campaigns are readily available. TDH already has identified federal grants that can be used for door-to-door immunization outreach programs for public housing projects. In addition, Vaccines For Children is funded by federal money. This bill would encourage these sorts of campaigns to help increase Texas early childhood immunization rates, while allowing TDH and TEA to incorporate these additional duties into their current budgets.

**OPPONENTS  
SAY:**

Whether or not to vaccinate should be a choice between parents and doctors, and parents should not feel pressure from the state to vaccinate their kids. Vaccines are potentially harmful to kids, and there is evidence linking them to autism. Some parents elect not to vaccinate their children for religious or health reasons. Immunizations are not for everyone, and it would be inappropriate for the state to spend its resources encouraging all parents to have their children vaccinated.

It would be inappropriate to limit provider liability for children harmed by vaccines. Although vaccines can be helpful to some, there is evidence that they might cause serious health problems. Children should be able to recover for damages caused by vaccines, and limiting liability for them would preclude families from any means of being compensated for their injuries.

The registry also might pose liability problems. There are confidentiality issues with allowing access to this private health information, and patients who had their confidential information improperly given out should be able to recover for their losses. Providers should be liable for their mistakes, and this bill would remove this responsibility, which could make providers less careful about protecting patient privacy.

The information given to parents is far too general. It is written at a sixth-grade level and does not provide enough depth for someone to make an informed decision about immunizations. Although it is true that parents can ask the health care provider about their concerns, doctors often are rushed and simply do not have time to go over everything properly. Evidence that certain vaccines could cause autism is easy to find on the Internet, but the information to be provided is so incomplete that it neglects to mention it. Doctors prescribe medications with inserts that are vastly more detailed than the information parents get on vaccines. If patients are presumed capable of understanding detailed information about the medicines they take, then they also should be able to understand more detailed descriptions about vaccines.

TEA and TDH already are overworked, and adding additional duties without funding would make it more difficult for them to perform their current functions.

**NOTES:**

A related bill, HB 1920 by Capelo, which would establish provider education programs relating to immunizations and the Vaccines For Children program, also is on today's General State Calendar.

Other related bills have been set on Wednesday's General State Calendar. SB 43 by Zaffirini, which passed the Senate by voice vote on February 27, would require TDH to report to the Legislature the results of a best practice pilot program to boost immunization rates. SB 40 by Zaffirini, which passed the Senate by voice vote on March 12, would require TDH to partner with other

public and private entities to coordinate a unified statewide vaccination education campaign.