

## **BILL ANALYSIS**

Senate Research Center  
77R14905 YDB-D

C.S.S.B. 1237  
By: Moncrief  
Health & Human Services  
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Committee Report (Substituted)

### **DIGEST AND PURPOSE**

In 1994, the Texas Department of Health established an immunization tracking system for the purpose of monitoring immunization rates for children across Texas. This system also serves as an information depository for providers who are then able to determine if a child's immunization record is up-to-date. For children who do not regularly see the same care provider, the system serves to protect them from "overimmunization." However, the current system lacks data from the private sector, and thus does not provide a complete picture of the immunization rates in Texas. Sections 38.001(c) and 51.933(d) of the Education Code currently exempt students from immunizations under certain conditions. Many feel that the current statute provides a loophole for parents and constricts those parents who object to only one or two of the current required immunizations. C.S.S.B. 1237 seeks to increase the reporting to the system by changing the registry from an opt-in system to an opt-out system while continuing to protect individual privacy. The bill also provides additional protection from liability for entities reporting immunization information to the Texas Department of Health.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Board of Health and the Texas Department of Health in SECTION 10 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Sets forth legislative findings.

SECTION 2. Amends Section 161.007, Health and Safety Code, as follows:

- (a) Adds language relating to the confidentiality of registrants in accordance with state and federal law, deletes a reference to Section 5.08, Medical Practice Act (Article 4495b, V.T.C.S.), and changes language requiring the written consent of a parent, managing conservator, or guardian of a patient before any information relating to the patient is included in the registry to permit one of the above people to choose to have the patient excluded from the registry. Deletes language permitting a parent, managing conservator, or guardian to withdraw consent for the patient to be included in the registry. Changes references from "patient" to "registrant."
- (b ) Adds an exception as provided by Section 161.0071 and deletes language relating to a person for whom consent has been obtained in accordance with the guidelines adopted under Subsection (a). Deletes language requiring the department to remove from the registry information for any person for whom consent has been withdrawn.
- (c) Adds language to require the report to contain the elements prescribed by the department. Authorizes the report to be submitted in writing or by electronic means. Deletes language relating to certain groups not being required to provide an immunization history to the department under this subsection. Makes conforming changes.

(d) Makes conforming changes.

(e) Adds language requiring the notice to contain instructions for the parent, managing conservator, or guardian to request that future notices not be sent and to remove the child's immunization record from the registry and any other registry-related record that individually identifies the child. Requires the notice to describe the procedure to report a violation if a child is included in the registry after the submission of a written request for exclusion.

(f) Makes a conforming change.

(g) Adds language relating to an insurance company, a health maintenance organization, or another organization that pays or reimburses a claim for immunization and makes conforming changes.

(h) Make a conforming change.

SECTION 3. Amends Chapter 161A, Health and Safety Code, by adding Section 161.0071, as follows:

Sec. 161.0071. NOTICE OF RECEIPT OF REGISTRY DATA; EXCLUSION FROM REGISTRY. (a) Requires the department, the first time the department receives registry data for a child, to send a written notification to the child's parent, managing conservator, or guardian disclosing certain information.

(b) Requires the department to delete the child's immunization records from the registry and any other registry-related department record that individually identifies the child, not later than the 30th day after the date the department receives from the parent, managing conservator, or guardian of the child a written request that the child be excluded from the registry. Requires the department to maintain only those records related to the child necessary to ensure that the child continues to be excluded from the registry and prohibits the release of the identity of a child excluded from the registry.

(c) Requires the department to send to a parent, managing conservator, or guardian who makes a written request under Subsection (b) a written confirmation of receipt of the request for exclusion and the exclusion of the child's records from the registry.

(d) Provides that the department commits a violation if the department fails to exclude a child from the registry within the period required by Subsection (b).

(e) Requires the department to accept a written statement from a parent, managing conservator, or guardian communicating to the department that a child should be excluded from the registry, including a statement on the child's birth certificate, as a request for exclusion under Subsection (b).

SECTION 4. Amends Chapter 161A, Health and Safety Code, by adding Section 161.0072, as follows:

Sec. 161.0072. REGISTRY CONFIDENTIALITY. (a) Provides that the information that individually identifies a child received by the department for the immunization registry is confidential and may be used by the department for registry purposes only.

(b) Prohibits the department, unless specifically authorized under this subchapter, from releasing registry information to any individual or entity without the consent of the person, or if a minor, the parent, managing conservator, or guardian of the child.

(c) Prohibits a person required to report information to the department for registry purposes or authorized to receive information from the registry, from disclosing the individually identifiable information to any other person without written consent of the parent, managing conservator, or guardian of the child, except as provided by Chapter 159 (Physician-Patient Communication), Occupations Code.

(d) Provides that registry information is not subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this subchapter or admissible in any civil, administrative, or criminal proceeding.

SECTION 5. Amends Chapter 161A, Health and Safety Code, by adding Section 161.0075, as follows:

Sec. 161.0075. REPORT TO LEGISLATURE. (a) Requires the department to report to the Legislative Budget Board, the governor, the lieutenant governor, the speaker of the house of representatives, and appropriate committees of the legislature not later than September 30 of each even-numbered year.

(b) Requires the department to use the report required under Subsection (a) to develop ways to increase immunization rates using state and federal resources.

(c) Requires the report to include certain information.

SECTION 6. Amends Section 161.008, Health and Safety Code, by amending Subsections (c) and (d) and adding Subsections (e)-(g), as follows:

(c) Adds language authorizing the department to obtain the data constituting an immunization record for the child from an insurance company, a health maintenance organization, or any other organization that pays or reimburses a claim for immunization, or any physician, health care professional, or health care facility personnel licensed or otherwise authorized to administer vaccines. Makes a conforming change.

(d) Authorizes the department, after the 30th day after the date notice was sent by the department to the child's parent, managing conservator, or guardian under Section 161.0071, if the department has not received a written request to exclude the child from the registry, to enter the child into the registry and release the data constituting an immunization record for the child to any entity in this state that is described by Subsection (c) and is providing immunization services to the child or is paying or reimbursing a claim for an immunization for the child, to a school or child care facility in which the child is enrolled or to a state agency responsible for the health care of the child.

(f) Authorizes the department to release nonidentifying summary statistics related to the registry that do not individually identify a child.

(g) Prohibits the department from releasing individually identifiable information under Subsection (d)(2) to an entity outside of this state.

(h) Requires the department to develop a secure Internet-based system to allow a school that has obtained an ImmTrac user number to verify whether a child has received the vaccinations required by Sections 38.001 and 51.933, Education Code. Prohibits a school that obtains an ImmTrac user number for this purpose, except as provided by board rules, from requiring verification of vaccination of a child from the child's parent, managing conservator, or guardian.

SECTION 7. Amends Section 161.009(a), Health and Safety Code, to add references to Sections 161.0071 and 161.0072.

SECTION 8. Amends Section 38.002(a), Education Code , to add language requiring each public school to keep an individual immunization record or a record of the number and type of exemptions as permitted under Section 38.001(c) during the period of attendance for each student admitted. Requires the school to annually submit a report on a form prescribed by the Texas Department of Health to the department stating the number and type of exemptions on file for children who are attending the school and exercising the exemption. Prohibits the report from including individually identifiable information and requires it to include the total student enrollment on campus.

SECTION 9. (a) Requires the Texas Department of Health (department) to conduct a study to determine the most effective methods of increasing immunizations rates. Requires the department to carry out certain duties to determine the methods.

(b) Requires the department, not later than November 1, 2002, to submit a written report of the results of the study to the lieutenant governor and the speaker of the house of representatives.

(c) Authorizes the department, notwithstanding the date specified in Section 161.0075(a), Health and Safety Code, as added by this Act, to coordinate the report required under that section with the report of the study required under this section.

SECTION 10. Sets forth provisions relating to implementation of this Act.

SECTION 11. Effective date: upon passage or September 1, 2001.