

By: Jetton

H.B. No. 273

A BILL TO BE ENTITLED

AN ACT

relating to the release or disclosure of vaccination or immunization information to certain persons; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.0093 to read as follows:

Sec. 161.0093. RELEASE OR DISCLOSURE OF VACCINATION OR IMMUNIZATION INFORMATION TO CERTAIN PERSONS PROHIBITED; CIVIL PENALTY. (a) In this section, "health authority" has the meaning assigned by Section 81.003.

(b) An employee or agent of the department or a health authority may not release or otherwise disclose to any person an individual's vaccination or immunization information received by the department or health authority unless:

(1) the department or health authority, as applicable, obtains the written or electronic consent of the individual or the individual's legally authorized representative;

(2) the employee or agent releases or discloses the information to a health care provider in accordance with applicable state and federal laws relating to the privacy, protection, confidentiality, and transmission of health information; or

(3) the release or disclosure is otherwise authorized by this subchapter.

1 (c) An individual who releases or discloses vaccination or
2 immunization information in violation of Subsection (b) is liable
3 to this state for a civil penalty in an amount not less than \$2,000
4 and not to exceed \$50,000 for each violation. The attorney general
5 may bring an action to collect the civil penalty imposed under this
6 subsection.

7 SECTION 2. Sections 161.007(a) and (j), Health and Safety
8 Code, are amended to read as follows:

9 (a) The department, for the primary purpose of establishing
10 and maintaining a single repository of accurate, complete, and
11 current immunization records to be used in aiding, coordinating,
12 and promoting efficient and cost-effective communicable disease
13 prevention and control efforts, shall establish and maintain an
14 immunization registry. The executive commissioner by rule shall
15 develop guidelines to:

16 (1) protect the confidentiality of patients in accordance
17 with Section 159.002, Occupations Code;

18 (2) inform the individual or the individual's legally
19 authorized representative about the registry [and that registry
20 information may be released under Section 161.00735];

21 (3) require the written or electronic consent of the
22 individual or the individual's legally authorized representative
23 before any information relating to the individual is included in
24 the registry;

25 (4) permit the individual or the individual's legally
26 authorized representative to withdraw consent for the individual to
27 be included in the registry; and

1 (5) determine the process by which consent is verified,
2 including affirmation by a health care provider, birth registrar,
3 regional health information exchange, or local immunization
4 registry that consent has been obtained.

5 (j) Except as provided by Sections 161.00705, 161.00706,
6 [161.00735(b),] and 161.008, information obtained by the
7 department for the immunization registry is confidential and may be
8 disclosed only with the written or electronic consent of the
9 individual or the individual's legally authorized representative.

10 SECTION 3. Section 161.00705(g), Health and Safety Code, is
11 amended to read as follows:

12 (g) The immunization information of a child or other
13 individual received by the department under this section, including
14 individually identifiable information, may be released only:

15 (1) on consent of the individual or, if a child, the child's
16 parent, managing conservator, or guardian; or

17 (2) to a [state agency or] health care provider consistent
18 with the purposes of this subchapter or the purposes of aiding or
19 coordinating communicable disease prevention and control efforts
20 during a declared disaster, public health emergency, terrorist
21 attack, hostile military or paramilitary action, or extraordinary
22 law enforcement emergency.

23 SECTION 4. Sections 161.00706(c) and (d), Health and Safety
24 Code, are amended to read as follows:

25 (c) The executive commissioner shall:

26 (1) develop rules to ensure that immunization history
27 submitted under Subsection (a)(2) is medically verified

1 immunization information;

2 (2) develop guidelines for use by the department in
3 informing first responders about the registry [and that registry
4 information may be released under Section 161.00735]; and

5 (3) adopt rules necessary for the implementation of this
6 section.

7 (d) A [Except as provided by Section 161.00735, a] person's
8 immunization history or data received by the department under this
9 section may be released only on consent of the person or to any
10 health care provider licensed or otherwise authorized to administer
11 vaccines.

12 SECTION 5. Section 161.0071(a), Health and Safety Code, is
13 amended to read as follows:

14 (a) The first time the department receives registry data for
15 an individual for whom the department has received consent to be
16 included in the registry, the department shall send notice to the
17 individual or the individual's legally authorized representative
18 disclosing:

19 (1) that providers and payors may be sending the
20 individual's immunization information to the department;

21 (2) the information that is included in the registry;

22 (3) the persons to whom the information may be released
23 under Section [Sections 161.00735(b) and] 161.008(d);

24 (4) the purpose and use of the registry;

25 (5) the procedure to exclude an individual from the
26 registry; and

27 (6) the procedure to report a violation if an individual's

1 information is included in the registry after exclusion has been
2 requested or consent has been withdrawn.

3 SECTION 6. Section 161.0073(a), Health and Safety Code, is
4 amended to read as follows:

5 (a) Except as provided by Section [Sections] 161.00705 [and
6 161.00735], information that individually identifies an individual
7 that is received by the department for the immunization registry is
8 confidential and may be used by the department for registry
9 purposes only.

10 SECTION 7. The heading to Section 161.00735, Health and
11 Safety Code, is amended to read as follows:

12 Sec. 161.00735. [RELEASE AND] RECEIPT OF REGISTRY DATA IN
13 DISASTER.

14 SECTION 8. Section 161.00735(h), Health and Safety Code, is
15 amended to read as follows:

16 (h) The executive commissioner shall make every effort to
17 enter into a memorandum of agreement with each state from [to] which
18 residents of that [this] state are likely to evacuate to this state
19 in a disaster on[:

20 [(1) the release and use of registry information under this
21 section to the appropriate health authority or local health
22 authority of that state, including the length of time the
23 information may be retained by that state; and

24 [(2)] the receipt and use of information submitted by the
25 health authority or local health authority of that state for
26 inclusion in the registry under this section.

27 SECTION 9. Section 161.0075, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 161.0075. IMMUNITY FROM LIABILITY. Except as provided
3 by Sections [Section] 161.009 and 161.0093, the following persons
4 subject to this subchapter that act in compliance with Sections
5 161.007, 161.00705, 161.00706, 161.0071, 161.0073, 161.0074, and
6 161.008 are not civilly or criminally liable for furnishing the
7 information required under this subchapter:

8 (1) a payor;

9 (2) a health care provider who administers immunizations;
10 and

11 (3) an employee of the department.

12 SECTION 10. Section 161.008(d), Health and Safety Code, is
13 amended to read as follows:

14 (d) The department may release the data constituting an
15 immunization record for the individual to:

16 (1) a health care provider treating the individual or an
17 organization to which the individual is a member [any entity that is
18 described by Subsection (c)]; or

19 (2) [a school or child care facility in which the individual
20 is enrolled;

21 [(3) a state agency having legal custody of the individual;
22 or

23 [(4)] an employer of a first responder or a first responder
24 in accordance with Section 161.00708.

25 SECTION 11. Section 161.00735(b), Health and Safety Code,
26 is repealed.

27 SECTION 12. The changes in law made by this Act apply only

1 to the release or disclosure of information on or after the
2 effective date of this Act. The release or disclosure of
3 information before the effective date of this Act is governed by the
4 law in effect when the release or disclosure was made, and the
5 former law is continued in effect for that purpose.

6 SECTION 13. This Act takes effect December 1, 2021.