

By: Bucy

H.B. No. 3711

A BILL TO BE ENTITLED

AN ACT

relating to establishing a registry of medically fragile individuals for wellness checks during certain emergencies.

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

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 174 to read as follows:

CHAPTER 174. WELLNESS CHECKS FOR MEDICALLY FRAGILE INDIVIDUALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 174.001. DEFINITIONS. In this chapter:

(1) "Division" means the Texas Division of Emergency Management.

(2) "First responder" means any federal, state, or local personnel who may respond to a disaster, including:

(A) public health and public safety personnel;

(B) commissioned law enforcement personnel;

(C) fire protection personnel, including volunteer firefighters;

(D) emergency medical services personnel, including hospital emergency facility staff;

(E) a member of the National Guard; or

(F) a member of the Texas State Guard.

(3) "Individual's legally authorized representative" means:

(A) a guardian of a medically fragile individual

1 who has been adjudicated incompetent to manage the individual's  
2 personal affairs; or

3 (B) an agent of a medically fragile individual  
4 authorized under a durable power of attorney for health care.

5 (4) "Medically fragile individual" means any  
6 individual who, during a time of disaster or emergency, would be  
7 particularly vulnerable because of a medical condition, including  
8 individuals:

9 (A) with Alzheimer's disease and other related  
10 disorders;

11 (B) receiving dialysis services;

12 (C) who are diagnosed with a debilitating chronic  
13 illness;

14 (D) who are dependent on oxygen treatment; or

15 (E) who have medical conditions that require  
16 24-hour supervision from a skilled nurse.

17 (5) "Registry" means the registry established under  
18 this chapter.

19 Sec. 174.002. RULES. The executive commissioner shall  
20 adopt rules to implement this chapter.

21 SUBCHAPTER B. MEDICALLY FRAGILE INDIVIDUAL REGISTRY

22 Sec. 174.051. MEDICALLY FRAGILE INDIVIDUAL REGISTRY. (a)  
23 The commission, in collaboration with the department and the  
24 division, shall establish and maintain a registry of medically  
25 fragile individuals for use as a single repository of accurate,  
26 complete, and current records to aid, coordinate, and promote an  
27 efficient response for supporting those individuals in an area:

1 (1) subject to a state of disaster declaration under  
2 Chapter 418, Government Code;

3 (2) experiencing an extended power, water, or gas  
4 outage; or

5 (3) experiencing any other event requiring a wellness  
6 check under Section 174.102.

7 (b) The executive commissioner by rule shall, in  
8 consultation with the division, develop guidelines to:

9 (1) protect the confidentiality of medically fragile  
10 individuals in accordance with Section 159.002, Occupations Code;

11 (2) ensure that the registry is developed in a manner  
12 consistent with the Health Insurance Portability and  
13 Accountability Act of 1996 (Pub. L. No. 104-191), regulations  
14 adopted under that Act, and other applicable laws and regulations  
15 governing disclosure of health information;

16 (3) inform a medically fragile individual or the  
17 individual's legally authorized representative about the registry  
18 and that registry information may be released;

19 (4) require the written or electronic consent of a  
20 medically fragile individual or the individual's legally  
21 authorized representative before any information relating to the  
22 individual is included in the registry; and

23 (5) allow a medically fragile individual or the  
24 individual's legally authorized representative to withdraw consent  
25 for the individual to be included in the registry.

26 Sec. 174.052. CONSENT FOR REGISTRY; REMOVAL FROM REGISTRY.

27 (a) A medically fragile individual's or the individual's legally

1 authorized representative may consent to the individual's  
2 inclusion on the registry. Consent to inclusion on the registry  
3 under this section:

- 4 (1) must be written or electronic;
- 5 (2) is required to be obtained only one time;
- 6 (3) must be received from the individual before the  
7 individual is included in the registry; and
- 8 (4) may be revoked at any time.

9 (b) The consent of a medically fragile individual or the  
10 individual's legally authorized representative is valid until the  
11 individual or the individual's legally authorized representative  
12 withdraws consent in writing or electronically.

13 (c) The commission shall remove from the registry  
14 information for any individual for whom consent has been withdrawn.  
15 The commission may not retain individually identifiable  
16 information about any individual for whom consent has been  
17 withdrawn.

18 Sec. 174.053. INFORMATION REQUIRED ON REGISTRY. The  
19 registry must contain the following information regarding a  
20 medically fragile individual obtained by the commission:

- 21 (1) the individual's full name;
- 22 (2) the individual's address;
- 23 (3) primary and secondary contact information for the  
24 individual;
- 25 (4) the individual's emergency contact information;
- 26 (5) the individual's medical condition and specific  
27 medical needs; and

1           (6) any other information that the commission, in  
2 consultation with the department and division, considers  
3 necessary.

4           Sec. 174.054. ACCESS TO REGISTRY. The executive  
5 commissioner shall adopt rules regarding the persons authorized to  
6 access the registry. Persons who must have access to the registry  
7 include:

- 8           (1) the commission;
- 9           (2) the department;
- 10          (3) the division;
- 11          (4) first responders;
- 12          (5) local governments; and
- 13          (6) local health departments.

14                           SUBCHAPTER C. WELLNESS CHECKS

15          Sec. 174.101. REQUIRED WELLNESS CHECK. The commission  
16 shall collaborate with the persons who have access to the registry  
17 under Section 174.054 and with applicable municipalities and  
18 counties to ensure that each medically fragile individual listed in  
19 the registry and located in an area that experiences an event  
20 requiring a wellness check as described by Section 174.102 has a  
21 wellness check conducted on the individual in accordance with this  
22 subchapter to ensure the individual has:

- 23           (1) continuity of care; and
- 24           (2) the ability to continue using electrically powered  
25 medical equipment, if applicable.

26          Sec. 174.102. EVENTS REQUIRING WELLNESS CHECKS. (a) The  
27 executive commissioner, in collaboration with the commission,

1 department, and division, shall adopt rules regarding the events  
2 requiring a wellness check, including:

- 3 (1) an extended power, water, or gas outage;  
4 (2) a state of disaster declared under Chapter 418,  
5 Government Code; or  
6 (3) any other event considered necessary by the  
7 commission, the department, or the division.

8 (b) If more than one disaster is declared for the same  
9 event, only one wellness check is required under this subchapter.

10 Sec. 174.103. REQUIREMENTS FOR WELLNESS CHECK. (a) The  
11 executive commissioner by rule shall develop minimum standards for  
12 wellness checks. Each county and municipality shall adopt  
13 procedures for conducting wellness checks in compliance with the  
14 minimum standards.

15 (b) A wellness check on a medically fragile individual  
16 conducted under this subchapter must be conducted:

- 17 (1) through:  
18 (A) an automated telephone call and text to the  
19 individual;  
20 (B) a personalized telephone call to the  
21 individual; and  
22 (C) if the individual is unresponsive to a  
23 telephone call under Paragraph (B), an in-person wellness check;  
24 and

25 (2) in accordance with the minimum standards  
26 prescribed by commission rule and the procedures of the applicable  
27 county or municipality.

1        (c) A wellness check shall be conducted as soon as  
2 practicable but not later than 24 hours after the event requiring a  
3 wellness check occurs.

4        SECTION 2. As soon as practicable after the effective date  
5 of this Act, the executive commissioner of the Health and Human  
6 Services Commission shall adopt any rules necessary to implement  
7 Chapter 174, Health and Safety Code, as added by this Act.

8        SECTION 3. This Act takes effect September 1, 2021.