

By: Capelo

H.B. No. 89

A BILL TO BE ENTITLED

AN ACT

relating to the right to refuse certain immunizations.

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

SECTION 1. Section 38.001(c), Education Code, as amended by H.B. No. 2292, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(c) Immunization is not required for a person's admission to any elementary or secondary school if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required would be injurious [~~poses a significant risk~~] to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the [~~applicant declines~~] immunization conflicts with the tenets and practice of a recognized church or religious denomination of which the applicant is an adherent or member, except that this exemption does not apply in times of emergency or epidemic declared by the commissioner of public health [~~for reasons of conscience, including a religious belief~~]; or

1 (2) is a member of the armed forces of the United
2 States and is on active duty.

3 SECTION 2. Section 51.933(d), Education Code, as amended by
4 H.B. No. 2292, Acts of the 78th Legislature, Regular Session, 2003,
5 is amended to read as follows:

6 (d) No form of immunization is required for a person's
7 admission to an institution of higher education if the person
8 applying for admission:

9 (1) submits to the admitting official:

10 (A) an affidavit or a certificate signed by a
11 physician who is duly registered and licensed to practice medicine
12 within the United States in which it is stated that, in the
13 physician's opinion, the immunization required would be injurious
14 [~~poses a significant risk~~] to the health and well-being of the
15 applicant or any member of the applicant's family or household; or

16 (B) an affidavit signed by the applicant or, if a
17 minor, by the applicant's parent or guardian stating that the
18 [~~applicant declines~~] immunization conflicts with the tenets and
19 practice of a recognized church or religious denomination of which
20 the applicant is an adherent or member [~~for reasons of conscience,~~
21 ~~including a religious belief~~]; or

22 (2) is a member of the armed forces of the United
23 States and is on active duty.

24 SECTION 3. Section 161.004(d), Health and Safety Code, as
25 amended by H.B. No. 2292, Acts of the 78th Legislature, Regular
26 Session, 2003, is amended to read as follows:

27 (d) A child is exempt from an immunization required by this

1 section if:

2 (1) immunization conflicts with the tenets of an
3 organized religion to which a parent, managing conservator, or
4 guardian belongs [~~states that the immunization is being declined~~
5 ~~for reasons of conscience, including a religious belief~~]; or

6 (2) the immunization is medically contraindicated
7 based on an examination of the child by [~~the opinion of~~] a physician
8 licensed by any state in the United States [~~who has examined the~~
9 ~~child~~].

10 SECTION 4. Section 42.043(d), Human Resources Code, as
11 amended by H.B. No. 2292, Acts of the 78th Legislature, Regular
12 Session, 2003, is amended to read as follows:

13 (d) No immunization may be required for admission to a
14 facility regulated under this chapter if a person applying for a
15 child's admission submits one of the following affidavits:

16 (1) an affidavit signed by a licensed physician
17 stating that the immunization would be injurious [~~poses a~~
18 ~~significant risk~~] to the health and well-being of the child or a
19 member of the child's family or household; or

20 (2) an affidavit signed by the child's parent or
21 guardian stating that the [~~applicant declines~~] immunization
22 conflicts with the tenets and practices of a recognized religious
23 organization of which the applicant is an adherent or a member [~~for~~
24 ~~reasons of conscience, including a religious belief~~].

25 SECTION 5. The following laws are repealed:

26 (1) Sections 38.001(c-1) and (f), Education Code, as
27 added by H.B. No. 2292, Acts of the 78th Legislature, Regular

1 Session, 2003;

2 (2) Section 51.933(d-1), Education Code, as added by
3 H.B. No. 2292, Acts of the 78th Legislature, Regular Session, 2003;

4 (3) Section 161.0041, Health and Safety Code, as added
5 by H.B. No. 2292, Acts of the 78th Legislature, Regular Session,
6 2003; and

7 (4) Section 42.043(d-1), Human Resources Code, as
8 added by H.B. No. 2292, Acts of the 78th Legislature, Regular
9 Session, 2003.

10 SECTION 6. This Act takes effect September 1, 2003, if it
11 receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for effect on that
14 date, this Act takes effect November 1, 2003.