

BILL ANALYSIS

Senate Research Center

H.B. 1921
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Health & Human Services
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Engrossed

DIGEST AND PURPOSE

In 1994, the Texas Department of Health (TDH) established an immunization tracking system to monitor immunization rates for children across Texas. Additionally, this system 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 consistently see the same health care provider, the system serves to protect them from "over immunization." However, the current system lacks data from the private sector, and thus does not present an accurate report of the immunization rates in Texas. H.B. 1921 modifies the state's current immunization tracking system, ImmTrac, to increase collection data.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Board of Health in SECTION 3 (Section 161.0072, Health and Safety Code) and SECTION 4 (Section 161.008, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 161, Health and Safety Code, by adding Section 161.0001, as follows:

Sec. 161.0001. DEFINITIONS. Defines "data elements" and "payor."

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

(a-1) Provides that the written consent required by Subsection (a)(3) is required to be obtained only one time. Provides that the written consent is valid until the child becomes 18 years of age unless the consent is withdrawn in writing. Authorizes a parent, managing conservator, or guardian of a child to provide the written consent by using an electronic signature on the child's birth certificate.

(b) Prohibits the Texas Department of Health (TDH) from retaining individually identifiable information about any person for whom consent has been withdrawn.

(c) Requires a payor that receives data elements from a health care provider who administers an immunization to a person younger than 18 years of age to provide the data elements to TDH. Provides that a payor is required to provide TDH with only the data elements the payor receives from a health care provider. Requires the data elements to be submitted in a format prescribed by TDH. Requires TDH to verify consent before including the reported information in the immunization registry. Prohibits TDH from retaining individually identifiable information about a person for whom consent cannot be verified. Provides that an insurance company, health maintenance organization, or other organization is not required to provide an immunization history to the department under this subsection for a person for whom consent has not been obtained in accordance with guidelines adopted under Subsection (a) or for whom consent has been withdrawn.

(d) Requires a health care provider who administers an immunization to a person younger than 18 years of age to provide data elements regarding an immunization to TDH, rather

than unless the immunization history is submitted to an insurance company, a health maintenance organization, or another organization that pays or reimburses a claim for an immunization to a person younger than 18 years of age. Requires the data elements report to be submitted in a format prescribed by TDH. Requires TDH to verify consent before including the information in the immunization registry. Prohibits TDH from retaining individually identifiable information about a person for whom consent cannot be verified.

(e) Requires TDH to provide notice to a health care provider that submits an immunization history for a person for whom consent cannot be verified. Requires the notice to contain instructions for obtaining consent in accordance with guidelines adopted under Subsection (a) and resubmitting the immunization history to TDH.

(f) Authorizes TDH and health care providers to use the registry to provide notice by certain means.

(g) Requires TDH to provide instruction and education to providers about the immunization registry provider application and enrollment process. Requires TDH to initially target providers in the geographic regions of the state with immunization rates below the state average for preschool children and expedite the processing of provider applications.

(h) Redesignates Subsection (f) as (h).

(i) Redesignates Subsection (g) as (i). Provides that a person, including a health care provider, payor, or an employee of TDH who submits or obtains in good faith immunization data elements to or from TDH in compliance with the provisions of this section and any rules adopted under this section is not liable for any civil damages.

(j) Makes a conforming change.

(k) Redesignates Subsection (i) as (k).

SECTION 3. Amends Subchapter A, Chapter 161, Health and Safety Code, by adding Sections 161.0071, 161.0072, 161.0073, 161.0074, 161.0075, and 161.0076, as follows:

Sec. 161.0071. NOTICE OF RECEIPT OF REGISTRY DATA; EXCLUSION FROM REGISTRY. (a) Requires TDH, the first time TDH receives registry data for a child for whom TDH has received consent to be included in the registry, from a person other than the child's parent, managing conservator, or guardian, to send a written notice to the child's parent, managing conservator, or guardian disclosing certain information.

(b) Requires TDH, on discovering that consent to be included in the registry has not been granted, to exclude the child's immunization records from the registry and any other registry-related TDH record that individually identifies the child.

(c) Requires TDH, on receipt of a written request to exclude a child's immunization records from the registry, to send to a parent, managing conservator, or guardian who makes the request a written confirmation of receipt of the request for exclusion and to exclude the child's records from the registry.

(d) Provides that TDH commits a violation if TDH fails to exclude a child's immunization information from the registry as required by Subsection (b) or (c).

(e) Requires TDH to accept a written statement from a parent, managing conservator, or guardian communicating to TDH 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 (c). Authorizes the written statement to include the electronic signature on the child's birth certificate.

Sec. 161.0072. PROVIDING IMMUNIZATION INFORMATION TO DEPARTMENT.

(a) Authorizes the parent, managing conservator, or guardian, if the parent, managing conservator, or guardian of a child has reasonable concern that the child's health care provider is not submitting the immunization history to TDH and the parent, managing conservator, or guardian wants the child included in the registry, to provide the child's immunization history directly to TDH to be included in the immunization registry.

(b) Authorizes the parent, managing conservator, or guardian of a child to send evidence of the child's immunization history to TDH by facsimile transmission or by mail. Authorizes the evidence to include a copy of certain information.

(c) Requires the Texas Board of Health (board) to develop rules to ensure that the immunization history submitted by a parent, managing conservator, or guardian is medically verified immunization information.

Sec. 161.0073. **REGISTRY CONFIDENTIALITY.** (a) Provides that the information that individually identifies a child received by TDH for the immunization registry is confidential and may be used by TDH for registry purposes only.

(b) Prohibits TDH, 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 TDH 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, Occupations Code, or Article 28B.04, Insurance 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 and is not or admissible in any civil, administrative, or criminal proceeding.

Sec. 161.0074. **REPORT TO LEGISLATURE.** (a) Requires TDH 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 TDH 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 meet certain criteria.

Sec. 161.0075. **IMMUNITY FROM LIABILITY.** Provides that except as provided by Section 161.009, certain persons subject to this subchapter that act in compliance with Sections 161.007, 161.0071, 161.0073, 161.0074, and 161.008 are not civilly or criminally liable for furnishing the information required under this subchapter.

Sec. 161.0076. **COMPLIANCE WITH FEDERAL LAW.** Provides that if the provisions of this chapter relating to the use or disclosure of information in the registry are more stringent than the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, then the use or disclosure of information in the registry is governed by this chapter.

SECTION 4. Amends Section 161.008, Health and Safety Code, by amending Subsections (c) and (d) and adding Subsections (e)-(h), as follows:

(c) Authorizes TDH to obtain certain information.

(d) Authorizes TDH to release certain data.

(e) Redignates existing Subsection (d) as (e).

(f) Provides that a person, including a health care provider, a payor, or an employee of TDH, that submits in good faith an immunization history or data to or obtains in good faith an immunization history or data from TDH in compliance with the provisions of this section and any rules adopted under this section is not liable for any civil damages.

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

(h) Requires the board to adopt rules to implement this section.

SECTION 5. Amends Section 161.009(a), Health and Safety Code, to provide that a person commits an offense if the person negligently releases or discloses immunization registry information in violation of Section 161.007, 161.0071, 161.0073, or fails to exclude a child's immunization information in violation of Section 161.0071 or negligently uses information in the immunization registry to solicit new patients or clients or for other purposes that are not associated with immunization or quality-of-care purposes, unless authorized under this section.

SECTION 6. (a) Requires TDH, as soon as practicable, but not later than January 1, 2005, to adopt rules and forms necessary to implement this Act.

(b) Prohibits the data reported under Sections 161.007(c) and (d), Health and Safety Code, as amended by this Act, from being accepted or released by TDH until it has adopted rules and prescribed the forms required by this Act.

SECTION 7. (a) Effective date: upon passage or September 1, 2003, except as provided by Subsection (b).

(b) Provides that the change in law made by this Act to Sections 161.007(c) and (d), Health and Safety Code, takes effect January 1, 2005.