

BILL ANALYSIS

Senate Research Center
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S.B. 892
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

By two years of age, more than 20 percent of the children in the United States typically have seen more than one healthcare provider, resulting in scattered paper medical records. Immunization information systems help providers and families by consolidating immunization information into one reliable source and save money by ensuring that children get only the vaccines they need. Thousands of young evacuees throughout the United States have benefited from Louisiana Immunization Network for Kids Statewide by gaining access to their immunization records electronically.

Currently, the immunization registry must expunge the records of persons who are 18 years old, even though children are not the only persons who must be considered in the context of public health and immunizations. This is problematic, as immunization records are needed for entry into college and other advanced degree programs. It is also problematic in the event of an emergency, as this data would be very useful in tracking the population of persons who may need immunizations to protect them from outbreaks. Additionally, the current system requires an inordinate amount of state resources to verify consent for the 90 percent of the population that consents to inclusion in the system. It would be far less costly to verify the 10 percent of those who choose not to participate, freeing up the state's valuable resources for other health priorities.

Texas's immunization registry, ImmTrac, requires modifications in order to maximize the system's full potential and eliminate the need for a separate registry dedicated to a state of emergency. These modifications include changing the system to a lifespan registry, allowing for voluntary exclusion, and authorizing the capture of information beyond immunizations to aid the state in times of emergency.

As proposed, S.B. 892 permits data to be maintained for persons over the age of 18, unless they choose to exclude themselves, and authorizes the Department of State Health Services to verify the signatures of those who choose to be excluded from the registry, and to gather targeted information in the registry in cases of emergencies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 179.063, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Department of State Health Services is modified in SECTION 2 (Section 179.051, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Texas Board of Health is transferred to the executive commissioner of the Health and Human Services Commission in Section 2 (Sections 179.051, 179.055, and 179.0601, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle H, Title 2, Health and Safety Code, by adding Chapter 179, as follows:

CHAPTER 179. IMMUNIZATION AND SCREENING REGISTRY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 179.001. DEFINITIONS. Defines "department," "executive commissioner," "patient's legally authorized representative," "payor," and "screening test."

SECTION 2. Transfers Sections 161.007, 161.0071, 161.0072, 161.0073, 161.0074, 161.0075, 161.0076, 161.008, 161.009, and 161.0105, Health and Safety Code, to Chapter 179, Health and Safety Code, as added by this Act, renumbers as Sections 179.051, 179.054, 179.055, 179.056, 179.057, 179.058, 179.059, 179.060, 179.061, and 179.062, designates as Subchapter B, and amends those sections, and further amends Subchapter B by adding Sections 179.052, 179.053, 179.0601, and 179.063, as follows:

SUBCHAPTER B. IMMUNIZATION AND SCREENING REGISTRY

Sec. 179.051. New heading: IMMUNIZATION AND SCREENING REGISTRY; REPORTS TO DEPARTMENT. Redesignated from Section 161.007. (a) Requires the Texas Department of State Health Services (DSHS), for purposes of establishing and maintaining a single repository of accurate, complete, and current immunization and early childhood disease screening records to be used in aiding, coordinating, and promoting efficient and cost-effective communicable disease prevention and control efforts, to establish and maintain an immunization and screening registry. Requires DSHS by rule to develop guidelines to protect the confidentiality of patients, inform the patient or the patient's legally authorized representative about the registry, and permit the patient or the patient's legally authorized representative to have the patient excluded from the registry. Deletes existing text requiring written consent for the patient to be included in the registry.

(b) Requires the immunization and screening registry to contain information on the immunization and screening history that is obtained by DSHS under this section of each person in Texas until the person's death except as provided by Section 179.054. Prohibits DSHS from retaining individually identifiable information about any person for whom a request to be excluded from the registry has been received. Deletes existing text requiring DSHS to remove information for any person for whom consent has been withdrawn.

(c) Requires a payor that receives immunization or screening information under Section 179.052 from a health care provider who administers an immunization to a person or performs a screening test on a person younger than 18 years of age to provide the information to DSHS. Requires a payor to provide DSHS with only the information received from a health care provider. Requires the information to be submitted in a format prescribed by DSHS. Prohibits DSHS from retaining individually identifiable information about a person who requests to be excluded from the registry.

(d) Requires a health care provider who administers an immunization to or performs a screening test on a person younger than 18 years of age to provide the information required by Section 179.052 to DSHS. Authorizes a health care provider who administers an immunization to a person older than 18 years of age to provide the information required by Section 179.052 to DSHS. Requires the information to be submitted in a format prescribed by DSHS. Prohibits DSHS from retaining individually identifiable information about a person who requests to be excluded from the registry.

(e) Deletes existing text regarding instructions on obtaining consent for submitting information to DSHS. Authorizes DSHS and health care providers to use the registry to provide notices by mail, telephone, personal contact, or other means to a patient or the patient's legally authorized representative regarding a patient who is due or overdue for a particular type of immunization according to the DSHS immunization schedule or who is due or overdue for a particular screening test according to the DSHS screening schedule or in the opinion of the patient's health care provider. Requires the notice to contain certain instructions

for the patient or the patient's legally authorized representative. Requires the notice to describe the procedure to report a violation if a patient is included in the registry after requesting exclusion.

(f) Makes conforming changes.

(g) Makes a conforming change.

(h) Makes a conforming change.

(i) Provides that information obtained by DSHS for the immunization and screening registry is confidential and is only authorized to be disclosed with the written consent of the patient or the patient's legally authorized representative, except as provided by Section 179.0601, rather than Section 161.008.

(j) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner), rather than the Texas Board of Health (board), to adopt rules to implement this section.

Sec. 179.052. **REQUIRED INFORMATION.** Requires DSHS to collect certain information for the purposes of the registry.

Sec. 179.053. **TYPES OF SCREENINGS INCLUDED.** (a) Requires DSHS to include the results from certain screening tests in the immunization and screening registry.

(b) Authorizes DSHS to add to or delete from the list under Subsection (a) as it considers necessary.

Sec. 179.054. New heading: **NOTICE OF RECEIPT OF REGISTRY INFORMATION; EXCLUSION FROM REGISTRY.** Redesignated from Section 161.0071. (a) Requires DSHS to send a written notice to the patient or the patient's legally authorized representative the first time DSHS receives registry information for a patient to disclose certain information regarding the registry.

(b) Requires DSHS to exclude the patient's immunization and screening records from the registry and any other registry-related DSHS record that individually identifies the patient on receipt of a written request for exclusion from the registry.

(c)-(e) Makes conforming changes.

Sec. 179.055. New heading: **PROVIDING IMMUNIZATION AND SCREENING INFORMATION TO DEPARTMENT.** Redesignated from Section 161.0072. (a) Makes conforming changes.

(b) Makes conforming changes.

(c) Requires the executive commissioner, rather than the board, to develop rules to ensure that the immunization and screening history submitted by a patient or the patient's legally authorized representative is medically verified immunization and screening information.

Sec. 179.056. **REGISTRY CONFIDENTIALITY.** Redesignated from Section 161.0073. Makes conforming changes.

Sec. 179.057. **REPORT TO LEGISLATURE.** Redesignated from Section 161.0074. Makes conforming changes.

Sec. 179.058. **IMMUNITY FROM LIABILITY.** Redesignated from Section 161.0075. Makes conforming changes.

Sec. 179.059. COMPLIANCE WITH FEDERAL LAW. Redesignated from Section 161.0076. Makes conforming changes.

Sec. 179.060. IMMUNIZATION RECORD. Redesignated from Section 161.008. Makes conforming changes.

Sec. 179.0601. RELEASE OF CERTAIN INFORMATION BY DEPARTMENT. (a) Authorizes DSHS to release any information described by Section 179.052(2) concerning a screening test to a state agency having legal custody of the patient. Makes conforming changes.

(b) Makes conforming changes.

(c) Provides that a person, including a health care provider, a payor, or an employee of DSHS, that submits in good faith immunization or screening information to or obtains in good faith immunization and screening information from DSHS in compliance with the provisions and any rules adopted under Section 179.060 and this section is not liable for any civil damages.

(d) Makes a conforming change.

(e) Requires the executive commissioner, rather than the board, to adopt rules to implement this section.

Sec. 179.061. PENALTIES FOR DISCLOSURE OF INFORMATION. Redesignated from Section 161.009. Provides the specific actions that constitute an offense.

Sec. 179.062. LIMITATION ON LIABILITY. Redesignated from Section 161.0105. Provides that a health care provider who acts in compliance with Sections 179.051 and 179.060 and any rules adopted under those sections is not civilly or criminally liable for furnishing the information required under those sections. Provides that this subsection does not apply to criminal liability established under Section 179.061.

(b) Makes conforming changes.

(c) Provides that the immunity created by this section is in addition to any immunity created by Sections 161.001 and 179.051(i).

Sec. 179.063. RULES. Requires the executive commissioner to adopt rules necessary to carry out the registry.

SECTION 3. Amends Section 531.064(c), Government Code, to make a conforming change.

SECTION 4. Repealer: Section 161.0001(1) (defining "data elements"), Health and Safety Code.

SECTION 5. Effective date: upon passage or September 1, 2007.