

BILL ANALYSIS

C.S.S.B. 1186
By: Nelson
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to expert testimony before the House Public Health; Culture, Recreation & Tourism; and Agriculture Committees earlier this session, one of the best ways Texans can prepare for an inevitable pandemic influenza event is to avail ourselves of vaccines when available and appropriate. The Texas Department of State Health Services (department) is required by the federal Pandemic Influenza Grant to have a tracking system in place for children and adults that receive antivirals, vaccines, or other medications should a public health emergency occur. During times of emergency, records of the antivirals, vaccines or other medications administered to both adults and children need to be maintained for proper disaster management activities.

During Hurricane Katrina, Louisiana state health officials were able to provide immunization records for more than 56,000 evacuated children. Consequently, emergency personnel in Texas saved an estimated \$4.2 million in revaccination costs and were able to allocate their limited resources effectively and deliver care to those evacuees with the highest need.

As proposed, C.S.S.B. 1186 requires that records of the antivirals, vaccines or other medications administered to both adults and children during times of emergency be included in ImmTrac. The bill authorizes individuals to choose to maintain their immunization records in the registry; without a written request by an individual to maintain the individual's immunization records in the registry, the records will be removed upon expiration of the period determined by the Health and Human Services Commission after the end of the emergency.

The bill also allows immunization records for children currently in the registry by consent to remain in the registry beyond their 18th birthday. There are numerous reasons to access individual vaccination records beyond that age. Health care research has recently found that some childhood vaccines require adult boosters to remain effective through a lifetime. Immunization records are needed for entry into college and other advanced degree programs. For example, the average nursing student in Texas is 28 years old. Nursing students who can not show they have had the necessary vaccines to work in a clinical setting often can not enroll in classes, or must spend hundreds of dollars to obtain the vaccinations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2, Sections 161.00705 (e) and (i) and Section 161.00706 (c)(1) and (c)(3), Health and Safety Code; and SECTION 3, 161.007 (a), Health and Safety Code, of this bill.

ANALYSIS

[While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services (DSHS), as the successor agency to TDH.]

SECTION 1. Amends Section 161.0001 Health & Safety Code to add any adverse or unexpected events for a vaccine, and any additional information specified in certain adopted rules, to the information contained in an immunization record; defines "first responder" and "immediate family member."

SECTION 2. Amends Subchapter A, Chapter 161, Health and Safety Code by adding Sections 161.00705, 161.00706, and 161.00707, which include the following.

Sec. 161.00705. RECORDING ADMINISTRATION OF IMMUNIZATION AND MEDICATION FOR DISASTERS AND EMERGENCIES.

CSSB 1186 requires the department to maintain a registry of persons who receive an immunization, antiviral, and other medication to an individual to prepare for a potential disaster or public health emergency, or in response to a declared disaster or public health emergency. Requires a health care provider (provider) who administers any of the above to provide the associated data elements to the Texas Department of Health (department) for inclusion in the immunization registry (registry) required by Section 161.007.

CSSB 1186 requires the department to track adverse reactions to an immunization, antiviral, and other medication administered to prepare for a potential disaster or public health emergency or in response to a declared disaster or public health emergency, and authorizes a health care provider to provide data related to the adverse reactions to the department. The bill provides that Sections 161.007, 161.0071, 161.0072 and 161.0074 apply to the submitted data elements unless a provision in those sections conflict with a requirement in the section.

CSSB 1186 requires the executive commissioner of HHSC to adopt rules that determine the period during which the information collected under this section must remain in the immunization registry following the end of the disaster or public health emergency.

CSSB 1186 requires the department to remove the immunization records collected under this section from the registry on expiration of the period prescribed under Subsection (e), unless an individual or if a child, the child's parent, managing conservator, or guardian consents in writing to the continued inclusion of the child's or other individual information in the registry.

CSSB 1186 authorizes the immunization information of a child or other individual received by the department under this section to be released only on consent of certain individuals, or to a state agency or health care provider consistent with the purposes of this subchapter or the purposes of aiding or coordinating communicable disease prevention and control efforts during a declared disaster.

CSSB 1186 requires the report required under Section 161.0074 (Report to Legislature) to also include the number of complaints received by the department related to the department's failure to remove information from the registry as required by Subsection (f).

CSSB 1186 Requires the executive commissioner to adopt rules necessary to implement this section.

Sec. 161.00706. FIRST RESPONDER IMMUNIZATION INFORMATION.

CSSB 1186 authorizes a person 18 years of age or older who is a first responder or an immediate family member of a first responder to request that a provider who administers an immunization to the person provide data elements regarding the immunization to the department for inclusion in the registry, or to provide the person's immunization history directly to the department for inclusion in the registry.

CSSB 1186 requires a provider, on receipt of a request under Subsection (a)(1), to submit the data elements to the department in a format prescribed by the department. Requires the department to verify the person's request before including the information in the registry.

CSSB 1186 requires the executive commissioner to develop rules to ensure that immunization history submitted under Subsection (a)(2) is medically verified

immunization information; develop guidelines for use by the department in informing first responders about the registry; and adopt rules for the implementation of this section.

CSSB 1186 authorizes a person's immunization history or data received by the department under this section to be released only on consent of the person or to any provider licensed or otherwise authorized to administer vaccines.

CSSB 1186 authorizes a person whose immunization records are included in the registry as authorized by this section to request in writing that the department remove that information from the registry. Requires the department to, not later than the 10th day after receiving a request under this subsection, remove the person's immunization records from the registry.

CSSB 1186 requires the report required under Section 161.0074 to also include the number of complaints received by the department related to the department's failure to comply with requests for removal of information from the registry under Subsection (e).

Sec. 161.00707. INFORMATION AND EDUCATION FOR FIRST RESPONDERS.

CSSB 1186 requires the department to develop a program for informing first responders about the immunization registry and educating first responders about the benefits of being included in the immunization registry, including ensuring that first responders receive necessary immunizations to prevent the spread of communicable diseases to which a first responder may be exposed during a public health emergency, and preventing duplication of vaccinations.

SECTION 3. Amends Section 161.007, Health and Safety Code, by amending Subsections (a), (b), and (j) and adding Subsections (b-1) and (b-2) to read as follows:

CSSB 1186 requires the department, for the primary purpose, rather than for purposes, of establishing and maintaining a single repository of accurate, complete, and current immunization records to be used in aiding, coordinating, and promoting efficient and cost-effective childhood communicable disease prevention and control efforts; and to establish and maintain an immunization registry that includes adults. Amends existing text to make conforming changes. Requires the department, by rule, to develop guidelines to determine the process by which consent is verified, including affirmation by a health care provider, birth registrar, regional health information exchange, or local immunization registry that consent has been obtained for the immunization registry. Makes conforming changes.

CSSB 1186 Requires that the registry contain information on the immunization history that is obtained by the department under Section 161.00705 of persons immunized to prepare for or in response to a public health or a declared disaster; and Section 161.00706 of first responders or their immediate family members.

CSSB 1186 prohibits the department from retaining individually identifiable information about any person for whom a consent for continued inclusion in the registry following the end of the disaster or public health emergency has not been received under Section 161.00705(f) or for whom a request to be removed from the registry has been received under Section 161.00706(e).

CSSB 1186 requires the department to retain individual's data in the registry until the person's death, unless otherwise provided by this subchapter. The bill requires the department to notify children turning 18 years old that their childhood records will remain in the registry unless the person withdraws consent to be included in the registry.

CSSB 1186 Includes Sections 161.00705, 161.00706 and 161.008 among the exceptions to this subsection. Authorizes information obtained by the department to be disclosed only with the written consent of the individual or, if a child, the child's parent, managing conservator, or guardian.

SECTION 4. Makes conforming changes to Subsections (a) and (c), Section 161.0073, Health and Safety Code.

SECTION 5. Includes Sections 161.00705 and 161.00706 among the sections under which persons subject to this subchapter who act in compliance with said sections, except as provided by Section 161.009, are not civilly or criminally liable for furnishing the information required under this subchapter.

SECTION 6. Amends Subsection (a), Section 161.009, Health and Safety Code, to provide that a person commits an offense if the person fails to remove a person's immunization information in violation of Section 161.00705 or 161.00706. Makes a conforming change.

SECTION 7. Creates new Section 161.0102. DISASTER PREPARATION. Requires the department to consult with public health departments and appropriate health care providers to identify adult immunizations that may be necessary to respond to or prepare for a disaster or public health emergency.

SECTION 8. Amends Subsection (a), Section 161.0105, Health and Safety Code, to include Sections 161.00705 and 161.00706 so that a health care provider who acts in compliance with those Sections and any rules adopted under those sections is not civilly or criminally liable for furnishing the information required under those sections. This subsection does not apply to criminal liability established under Section 161.009.

SECTION 9. Requires the commissioner, as soon as practicable after the effective date of this Act, to adopt the rules required by this Act.

SECTION 10. Makes application of the changes in law made by this Act to Section 161.009, Health and Safety Code, prospective. Provides that for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 11. Effective Date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Adds any adverse or unexpected events for a vaccine, and any additional information specified in certain adopted rules, to the information contained in an immunization record.

Renames the new Section 161.00705 created by the bill from "IMMUNIZATION INFORMATION DURING DECLARED DISASTER" to "RECORDING ADMINISTRATION OF IMMUNIZATION AND MEDICATION FOR DISASTERS AND EMERGENCIES".

Deletes definitions of "child", "Disaster area", and "Public health disaster".

Requires the department to maintain a registry of persons who receive an immunization, antiviral, and other medication administered to prepare for a potential disaster or public health emergency and requires health care providers to provide data elements regarding antivirals or other medication administered under these and other conditions to the department for inclusion in the registry. Makes conforming changes.

CSSB 1186 requires the department to track adverse reactions to an immunization, antiviral, and other medication administered to prepare for a potential disaster or public health emergency or in response to a declared disaster or public health emergency, and authorizes a health care provider to provide data related to the adverse reactions to the department. The bill provides that certain sections apply to the submitted data elements unless a provision in those sections conflict with a requirement in the section.

CSSB 1186 requires the executive commissioner to determine rules for information contained in the registry following a public health emergency and authorizes the department to release information during a public health emergency.

Creates a new Sec. 161.00707. **INFORMATION AND EDUCATION FOR FIRST RESPONDERS.** that requires the department to develop a program for informing first responders about the immunization registry and educating first responders about the benefits of being included in the immunization registry, including ensuring that first responders receive necessary immunizations to prevent the spread of communicable diseases to which a first responder may be exposed during a public health emergency, and preventing duplication of vaccinations.

Requires the department, by rule, to develop guidelines to determine the process by which consent is verified, including affirmation by a health care provider, birth registrar, regional health information exchange, or local immunization registry that consent has been obtained for the immunization registry. Makes conforming changes.

CSSB 1186 requires the department to retain individual's data in the registry until the person's death, unless otherwise provided for in the statutes; and to notify children turning 18 years old that their childhood records will remain in the registry unless the person withdraws consent to be included in the registry.

Creates new Section 161.0102. **DISASTER PREPARATION.** Requires the department to consult with public health departments and appropriate health care providers to identify adult immunizations that may be necessary to respond to or prepare for a disaster or public health emergency.