

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1186  
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Health & Human Services  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

During times of emergency, records of the immunizations administered to both adults and children need to be maintained for public health surveillance and tracking.

As proposed, S.B. 1186 requires that immunization records be included in the state's immunization registry, ImmTrac, during times of emergency. 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.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION 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 and Safety Code, by adding Subdivisions (1-a) and (1-b) to define "first responder" and "immediate family member."

SECTION 2. Amends Subchapter A, Chapter 161, Health and Safety Code, by adding Sections 161.00705 and 161.00706, as follows:

Sec. 161.00705. IMMUNIZATION INFORMATION DURING DECLARED DISASTER. (a) Defines "child," "disaster area," and "public health disaster."

(b) Requires a health care provider (provider) who administers an immunization to an individual in a disaster area during a declared disaster, including a public health disaster, to provide data elements regarding the immunization to the Texas Department of Health (department) for inclusion in the immunization registry (registry), notwithstanding any other provision of this chapter. Requires the data elements to be submitted within the time and in a format prescribed by the department.

(c) Requires the executive commissioner (executive commissioner) of the Health and Human Services Commission by rule to determine the period during which the information collected under this section is required to remain in the registry following the end of the disaster.

(d) Requires the department to remove the immunization records collected under this section from the registry on expiration of the period prescribed under Subsection (c), 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.

(e) 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.

(f) 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 (d).

(g) Requires the executive commissioner to adopt rules necessary to implement this section.

Sec. 161.00706. FIRST RESPONDER IMMUNIZATION INFORMATION. (a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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).

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

(a) 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, to establish and maintain an, rather than a childhood, immunization registry. Amends existing text relating to which individuals the department by rule is required to develop guidelines to inform about the registry, to include the guardian of each patient younger than 18 years of age, rather than each patient. Makes conforming changes.

(b) Requires that the registry contain information on the immunization history that is obtained by the department under Section 161.00705 of persons in a disaster area immunized during a declared disaster; and Section 161.00706 of first responders of their immediate family members. Makes conforming changes.

(b-1) 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 has not been received under Section 161.00705(d) or for whom a request to be removed from the registry has been received under Section 161.00706(e).

(j) Includes Sections 161.00705 and 161.00706 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. Amends Sections 161.0073(a) and (c), Health and Safety Code, as follows:

(a) Provides that Section 161.00705 is an exception to this subsection. Provides that this subsection concerns information that individually identifies a child or other individual, rather than only a child, that is received by the department for the registry.

(c) Makes conforming changes.

SECTION 5. Amends Section 161.00705, Health and Safety Code, as follows:

Sec. 161.0075. IMMUNITY FROM LIABILITY. 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 Section 161.009(a), 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. Amends 161.0105(a), Health and Safety Code, to provide that a health care provider who acts in compliance with Sections 161.00705 and 161.00705 is not civilly or criminally liable for furnishing the information required under those sections.

SECTION 8. Requires the executive commissioner to, as soon as practicable after the effective date of this Act, adopt the rules required under Sections 161.00705 and 161.00706, Health and Safety Code, as added by this Act.

SECTION 9. 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 10. Effective date: September 1, 2007.