

By: Howard of Travis

H.B. No. 1897

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Immunization and Screening Registry.

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

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 179 to read as follows:

CHAPTER 179. IMMUNIZATION AND SCREENING REGISTRY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 179.001. DEFINITIONS. In this chapter:

(1) "Department" means the Texas Department of State Health Services.

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(3) "Payor" means an insurance company, a health maintenance organization, or another organization that pays a health care provider to provide health care benefits, including providing immunizations or screening tests to a person younger than 18 years of age.

(4) "Screening test" means a rapid analytical procedure to determine the need for further diagnostic evaluation.

SECTION 2. 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, are transferred to Chapter 179, Health and Safety Code, as added by this Act, designated as Subchapter B, and amended, and Subchapter B is amended by adding Sections 179.052,

1 179.053, 179.0601, and 179.063, to read as follows:

2 SUBCHAPTER B. IMMUNIZATION AND SCREENING REGISTRY

3 Sec. 179.051 [~~161.007~~]. IMMUNIZATION AND SCREENING
4 REGISTRY; REPORTS TO DEPARTMENT. (a) The department, for purposes
5 of establishing and maintaining a single repository of accurate,
6 complete, and current immunization and early childhood disease
7 screening records to be used in aiding, coordinating, and promoting
8 efficient and cost-effective childhood [~~communicable~~] disease
9 prevention and control efforts, shall establish and maintain a
10 childhood immunization and screening registry. The department by
11 rule shall develop guidelines to:

12 (1) protect the confidentiality of patients in
13 accordance with Section 159.002, Occupations Code;

14 (2) inform a parent, managing conservator, or guardian
15 of each patient about the registry;

16 (3) require the written consent of a parent, managing
17 conservator, or guardian of a patient before any information
18 relating to the patient is included in the registry; and

19 (4) permit a parent, managing conservator, or guardian
20 to withdraw consent for the patient to be included in the registry.

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

27 (b) The childhood immunization and screening registry must

1 contain information on the immunization and screening history that
2 is obtained by the department under this section of each person who
3 is younger than 18 years of age and for whom consent has been
4 obtained in accordance with guidelines adopted under Subsection
5 (a). The department shall remove from the registry information for
6 any person for whom consent has been withdrawn. The department may
7 not retain individually identifiable information about any person
8 for whom consent has been withdrawn.

9 (c) A payor that receives immunization or screening
10 information under Section 179.052 [~~data elements~~] from a health
11 care provider who administers an immunization to or performs a
12 screening test on a person younger than 18 years of age shall
13 provide the information [~~data elements~~] to the department. A payor
14 is required to provide the department with only the information
15 [~~data elements~~] the payor receives from a health care provider. The
16 information [~~data elements~~] shall be submitted in a format
17 prescribed by the department. The department shall verify consent
18 before including the reported information in the immunization and
19 screening registry. The department may not retain individually
20 identifiable information about a person for whom consent cannot be
21 verified.

22 (d) A health care provider who administers an immunization
23 to or performs a screening test on a person younger than 18 years of
24 age shall provide the information required by Section 179.052 [~~data~~
25 ~~elements regarding an immunization~~] to the department. The
26 information [~~data elements~~] shall be submitted in a format
27 prescribed by the department. The department shall verify consent

1 before including the information in the immunization and screening
2 registry. The department may not retain individually identifiable
3 information about a person for whom consent cannot be verified.

4 (e) The department shall provide notice to a health care
5 provider that submits [~~an~~] immunization and screening information
6 [~~history~~] for a person for whom consent cannot be verified. The
7 notice shall contain instructions for obtaining consent in
8 accordance with guidelines adopted under Subsection (a) and
9 resubmitting the immunization and screening information [~~history~~]
10 to the department.

11 (f) The department and health care providers may use the
12 registry to provide notices by mail, telephone, personal contact,
13 or other means to a parent, managing conservator, or guardian
14 regarding his or her child or ward who is due or overdue for a
15 particular type of immunization according to the department's
16 immunization schedule or who is due or overdue for a particular
17 screening test according to the department's screening schedule or
18 in the opinion of the child's health care provider. The department
19 shall consult with health care providers to determine the most
20 efficient and cost-effective manner of using the registry to
21 provide those notices.

22 (g) The department shall provide instruction and education
23 to providers about the immunization and screening registry provider
24 application and enrollment process. The department shall:

25 (1) initially target providers in the geographic
26 regions of the state with immunization or screening rates below the
27 state average for preschool children; and

1 (2) expedite the processing of provider applications.

2 (h) Nothing in this section diminishes a parent's, managing
3 conservator's, or guardian's responsibility for having a child
4 immunized or screened properly, subject to Section 161.004(d).

5 (i) A person, including a health care provider, a payor, or
6 an employee of the department who submits or obtains in good faith
7 immunization and screening information [~~data elements~~] to or from
8 the department in compliance with the provisions of this section
9 and any rules adopted under this section is not liable for any civil
10 damages.

11 (j) Except as provided by Section 179.0601 [~~161.008~~],
12 information obtained by the department for the immunization and
13 screening registry is confidential and may be disclosed only with
14 the written consent of the child's parent, managing conservator, or
15 guardian.

16 (k) The executive commissioner [~~board~~] shall adopt rules to
17 implement this section.

18 Sec. 179.052. REQUIRED INFORMATION. For the purposes of
19 the registry, the department shall collect:

20 (1) for a vaccine, all the information a health care
21 provider is required to record in a medical record under 42 U.S.C.
22 Section 300aa-25, including but not limited to:

23 (A) the date the vaccine was administered;

24 (B) the vaccine manufacturer and lot number of
25 the vaccine;

26 (C) the name, the address, and if appropriate,
27 the title of the health care provider administering the vaccine;

1 and

2 (D) any adverse or unexpected events for any
3 vaccine; and

4 (2) for a screening test, only:

5 (A) the date the test was performed;

6 (B) the results of the test;

7 (C) the name, the address, and if appropriate,
8 the title of the health care provider administering the test; and

9 (D) the name and address of the laboratory
10 performing the test.

11 Sec. 179.053. TYPES OF SCREENINGS INCLUDED. (a) The
12 department shall include the results from the following screening
13 tests in the immunization and screening registry:

14 (1) a screening test required under Chapter 33;

15 (2) a hearing screening test required by Chapter 47;

16 (3) an asthma screening test;

17 (4) a blood lead test under Section 88.0025; and

18 (5) a screening test for exposure to varicella.

19 (b) The department may add to or delete from the list under
20 Subsection (a) as it considers necessary.

21 Sec. 179.054 [161.0071]. NOTICE OF RECEIPT OF REGISTRY
22 INFORMATION [DATA]; EXCLUSION FROM REGISTRY. (a) The first time
23 the department receives registry information [data] for a child for
24 whom the department has received consent to be included in the
25 registry, from a person other than the child's parent, managing
26 conservator, or guardian, the department shall send a written
27 notice to the child's parent, managing conservator, or guardian

1 disclosing:

2 (1) that providers and payors may be sending the
3 child's immunization and screening information to the department;

4 (2) the information that is included in the registry;

5 (3) the persons to whom the information may be
6 released under Section 179.0601(a) [~~161.008(d)~~];

7 (4) the purpose and use of the registry;

8 (5) the procedure to exclude a child from the
9 registry; and

10 (6) the procedure to report a violation if a parent,
11 managing conservator, or guardian discovers a child is included in
12 the registry after exclusion has been requested.

13 (b) On discovering that consent to be included in the
14 registry has not been granted, the department shall exclude the
15 child's immunization and screening records from the registry and
16 any other registry-related department record that individually
17 identifies the child.

18 (c) On receipt of a written request to exclude a child's
19 immunization and screening records from the registry, the
20 department shall send to a parent, managing conservator, or
21 guardian who makes the request a written confirmation of receipt of
22 the request for exclusion and shall exclude the child's records
23 from the registry.

24 (d) The department commits a violation if the department
25 fails to exclude a child's immunization and screening information
26 from the registry as required by Subsection (b) or (c).

27 (e) The department shall accept a written statement from a

1 parent, managing conservator, or guardian communicating to the
2 department that a child should be excluded from the registry,
3 including a statement on the child's birth certificate, as a
4 request for exclusion under Subsection (c). The written statement
5 may include the electronic signature on the child's birth
6 certificate.

7 Sec. 179.055 [~~161.0072~~]. PROVIDING IMMUNIZATION AND
8 SCREENING INFORMATION TO DEPARTMENT. (a) If the parent, managing
9 conservator, or guardian of a child has reasonable concern that the
10 child's health care provider is not submitting the immunization and
11 screening history to the department and the parent, managing
12 conservator, or guardian wants the child included in the registry,
13 the parent, managing conservator, or guardian may provide the
14 child's immunization and screening history directly to the
15 department to be included in the immunization and screening
16 registry.

17 (b) The parent, managing conservator, or guardian of a child
18 may send evidence of the child's immunization and screening history
19 to the department by facsimile transmission or by mail. The
20 evidence may include a copy of:

21 (1) the child's medical record indicating the
22 immunization history and screening reports;

23 (2) an invoice from a health care provider for the
24 immunization or screening; or

25 (3) documentation showing that a claim for the
26 immunization or screening was paid by a payor.

27 (c) The executive commissioner [~~board~~] shall develop rules

1 to ensure that the immunization and screening history submitted by
2 a parent, managing conservator, or guardian is medically verified
3 immunization and screening information.

4 Sec. 179.056 [~~161.0073~~]. REGISTRY CONFIDENTIALITY. (a)
5 The information that individually identifies a child received by
6 the department for the immunization and screening registry is
7 confidential and may be used by the department for registry
8 purposes only.

9 (b) Unless specifically authorized under this subchapter,
10 the department may not release registry information to any
11 individual or entity without the consent of the person or, if a
12 minor, the parent, managing conservator, or guardian of the child.

13 (c) A person required to report information to the
14 department for registry purposes or authorized to receive
15 information from the registry may not disclose the individually
16 identifiable information to any other person without written
17 consent of the parent, managing conservator, or guardian of the
18 child, except as provided by Chapter 159, Occupations Code, or
19 Section 602.053, Insurance Code.

20 (d) Registry information is not:

21 (1) subject to discovery, subpoena, or other means of
22 legal compulsion for release to any person or entity except as
23 provided by this subchapter; or

24 (2) admissible in any civil, administrative, or
25 criminal proceeding.

26 Sec. 179.057 [~~161.0074~~]. REPORT TO LEGISLATURE. (a) The
27 department shall report to the Legislative Budget Board, the

1 governor, the lieutenant governor, the speaker of the house of
2 representatives, and appropriate committees of the legislature not
3 later than September 30 of each even-numbered year.

4 (b) The department shall use the report required under
5 Subsection (a) to develop ways to increase immunization and
6 screening rates using state and federal resources.

7 (c) The report must:

8 (1) include the current immunization and screening
9 rates by geographic region of the state, where available;

10 (2) focus on the geographic regions of the state with
11 immunization and screening rates below the state average for
12 preschool children;

13 (3) describe the approaches identified to increase
14 immunization rates in underserved areas and the estimated cost for
15 each;

16 (4) identify changes to department procedures needed
17 to increase immunization and screening rates;

18 (5) identify the services provided under and
19 provisions of contracts entered into by the department to increase
20 immunization and screening rates in underserved areas;

21 (6) identify performance measures used in contracts
22 described by Subdivision (5);

23 (7) include the number and type of exemptions used in
24 the past year;

25 (8) include the number of complaints received by the
26 department related to the department's failure to comply with
27 requests for exclusion of individuals from the registry;

1 (9) identify all reported incidents of discrimination
2 for requesting exclusion from the registry or for using an
3 exemption for a required immunization;

4 (10) include department recommendations about the
5 best way to use, and communicate with, local registries in the
6 state; and

7 (11) include ways to increase provider participation
8 in the registry.

9 Sec. 179.058 [~~161.0075~~]. IMMUNITY FROM LIABILITY. Except as
10 provided by Section 179.061 [~~161.009~~], the following persons
11 subject to this subchapter that act in compliance with Sections
12 179.051, 179.054, 179.056, 179.057, 179.060 [~~161.007, 161.0071,~~
13 ~~161.0073, 161.0074~~], and 179.0601 [~~161.008~~] are not civilly or
14 criminally liable for furnishing the information required under
15 this subchapter:

16 (1) a payor;

17 (2) a health care provider who administers
18 immunizations or screening tests; and

19 (3) an employee of the department.

20 Sec. 179.059 [~~161.0076~~]. COMPLIANCE WITH FEDERAL LAW. If
21 the provisions of this subchapter [~~chapter~~] relating to the use or
22 disclosure of information in the registry are more stringent than
23 the Health Insurance Portability and Accountability Act and Privacy
24 Standards, as defined by Section 181.001, then the use or
25 disclosure of information in the registry is governed by this
26 subchapter [~~chapter~~].

27 Sec. 179.060 [~~161.008~~]. IMMUNIZATION RECORD. (a) An

1 immunization record is part of the immunization registry.

2 (b) An immunization record contains the:

3 (1) name and date of birth of the person immunized;

4 (2) dates of immunization;

5 (3) types of immunization administered; and

6 (4) name and address of the health care provider
7 administering the immunization.

8 (c) The department may obtain the data constituting an
9 immunization record for a child from a public health district, a
10 local health department, the child's parent, managing conservator,
11 or guardian, a physician to the child, a payor, or any health care
12 provider licensed or otherwise authorized to administer vaccines.
13 The department shall verify consent before including the reported
14 information in the immunization and screening registry. The
15 department may not retain individually identifiable information
16 about a person for whom consent cannot be verified.

17 (d) The executive commissioner shall adopt rules to
18 implement this section.

19 Sec. 179.0601. RELEASE OF CERTAIN INFORMATION BY
20 DEPARTMENT. (a) [~~(d)~~] The department may release the information
21 [~~data~~] constituting an immunization record for the child to any
22 entity that is described by Section 179.060(c) and [~~Subsection~~
23 ~~(c)~~] to a school or child care facility in which the child is
24 enrolled, and may release that information and any information
25 described by Section 179.052(2) concerning a screening test [~~or~~] to
26 a state agency having legal custody of the child.

27 (b) [~~(e)~~] A parent, managing conservator, or legal guardian

1 may obtain and on request to the department shall be provided with
2 all individually identifiable immunization and screening registry
3 information concerning his or her child or ward.

4 (c) [~~(f)~~] A person, including a health care provider, a
5 payor, or an employee of the department, that submits in good faith
6 [~~an~~] immunization or screening information [~~history or data~~] to or
7 obtains in good faith [~~an~~] immunization and screening information
8 [~~history or data~~] from the department in compliance with the
9 provisions of Section 179.060 and this section and any rules
10 adopted under Section 179.060 and this section is not liable for any
11 civil damages.

12 (d) [~~(g)~~] The department may release nonidentifying summary
13 statistics related to the registry that do not individually
14 identify a child.

15 (e) [~~(h)~~] The executive commissioner [~~board~~] shall adopt
16 rules to implement this section.

17 Sec. 179.061 [~~161.009~~]. PENALTIES FOR DISCLOSURE OF
18 INFORMATION. (a) A person commits an offense if the person:

19 (1) negligently releases or discloses immunization
20 and screening registry information in violation of Section
21 179.051, 179.054, 179.056, 179.060, or 179.0601 [~~161.007,~~
22 ~~161.0071, 161.0073, or 161.008~~];

23 (2) fails to exclude a child's immunization or
24 screening information in violation of Section 179.051 [~~161.0071~~];
25 or

26 (3) negligently uses information in the immunization
27 and screening registry to solicit new patients or clients or for

1 other purposes that are not associated with immunization,
2 screening, or quality-of-care purposes, unless authorized under
3 this section.

4 (b) An offense under this section is a Class A misdemeanor.

5 Sec. 179.062 [~~161.0105~~]. LIMITATION ON LIABILITY. (a) A
6 health care provider who acts in compliance with Sections 179.051
7 [~~161.007~~] and 179.060 [~~161.008~~] and any rules adopted under those
8 sections is not civilly or criminally liable for furnishing the
9 information required under those sections. This subsection does
10 not apply to criminal liability established under Section 179.061
11 [~~161.009~~].

12 (b) A person who administers a vaccination or performs a
13 screening test under a department program may be held liable only to
14 the extent the person would be liable if the person administered the
15 vaccination or performed the screening test outside the program.
16 The person is not liable for damages arising from the acts or
17 omissions of another person acting under the program or the
18 department.

19 (c) The immunity created by this section is in addition to
20 any immunity created by Sections 161.001 and 179.051(i)
21 [~~161.007(g)~~].

22 Sec. 179.063. RULES. The executive commissioner shall
23 adopt rules necessary to carry out the registry.

24 SECTION 3. Section 161.0001(1), Health and Safety Code, is
25 repealed.

26 SECTION 4. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2007.