

By: Kolkhorst

H.B. No. 2383

Substitute the following for H.B. No. 2383:

By: Gonzales

C.S.H.B. No. 2383

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the receipt and release of immunization information by  
3 the immunization registry in connection with a disaster.

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

5 SECTION 1. Sections 161.007(a), (b), (b-1), and (j), Health  
6 and Safety Code, are amended to read as follows:

7 (a) The department, for the primary purpose of establishing  
8 and maintaining a single repository of accurate, complete, and  
9 current immunization records to be used in aiding, coordinating,  
10 and promoting efficient and cost-effective childhood communicable  
11 disease prevention and control efforts, shall establish and  
12 maintain an immunization registry. The department by rule shall  
13 develop guidelines to:

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

16 (2) inform a parent, managing conservator, or guardian  
17 of each patient younger than 18 years of age about the registry and  
18 that registry information may be released under Section 161.00735;

19 (3) require the written consent of a parent, managing  
20 conservator, or guardian of a patient younger than 18 years of age  
21 before any information relating to the patient is included in the  
22 registry;

23 (4) permit a parent, managing conservator, or guardian  
24 of a patient younger than 18 years of age to withdraw consent for

1 the patient to be included in the registry; and

2 (5) determine the process by which consent is  
3 verified, including affirmation by a health care provider, birth  
4 registrar, regional health information exchange, or local  
5 immunization registry that consent has been obtained.

6 (b) The immunization registry must contain information on  
7 the immunization history that is obtained by the department under:

8 (1) this section of each person who is younger than 18  
9 years of age and for whom consent has been obtained in accordance  
10 with guidelines adopted under Subsection (a);

11 (2) Section 161.00705 of persons immunized to prepare  
12 for or in response to a declared disaster, public health emergency,  
13 terrorist attack, hostile military or paramilitary action, or  
14 extraordinary law enforcement emergency; ~~and~~

15 (3) Section 161.00706 of first responders or their  
16 immediate family members; and

17 (4) Section 161.00735 of persons evacuated or  
18 relocated to this state because of a disaster.

19 (b-1) The department shall remove from the registry  
20 information for any person for whom consent has been  
21 withdrawn. The department may not retain individually  
22 identifiable information about any person:

23 (1) for whom consent has been withdrawn;

24 (2) for whom a consent for continued inclusion in the  
25 registry following the end of the declared disaster, public health  
26 emergency, terrorist attack, hostile military or paramilitary  
27 action, or extraordinary law enforcement emergency has not been

1 received under Section 161.00705(f); [~~or~~]

2 (3) for whom a request to be removed from the registry  
3 has been received under Section 161.00706(e);

4 (4) for whom consent for continued inclusion in the  
5 registry following the end of a disaster has not been received under  
6 Section 161.00735(f); or

7 (5) for whom a request to remove information from the  
8 registry has been received under Section 161.00735(g).

9 (j) Except as provided by Sections 161.00705, 161.00706,  
10 161.00735(b), and 161.008, information obtained by the department  
11 for the immunization registry is confidential and may be disclosed  
12 only with the written consent of the individual or, if a child, the  
13 child's parent, managing conservator, or guardian.

14 SECTION 2. Sections 161.00706(c) and (d), Health and Safety  
15 Code, are amended to read as follows:

16 (c) The executive commissioner of the Health and Human  
17 Services Commission shall:

18 (1) develop rules to ensure that immunization history  
19 submitted under Subsection (a)(2) is medically verified  
20 immunization information;

21 (2) develop guidelines for use by the department in  
22 informing first responders about the registry and that registry  
23 information may be released under Section 161.00735; and

24 (3) adopt rules necessary for the implementation of  
25 this section.

26 (d) Except as provided by Section 161.00735, a [A] person's  
27 immunization history or data received by the department under this

1 section may be released only on consent of the person or to any  
2 health care provider licensed or otherwise authorized to administer  
3 vaccines.

4 SECTION 3. Section 161.0071(a), Health and Safety Code, is  
5 amended to read as follows:

6 (a) The first time the department receives registry data for  
7 a child for whom the department has received consent to be included  
8 in the registry, from a person other than the child's parent,  
9 managing conservator, or guardian, the department shall send a  
10 written notice to the child's parent, managing conservator, or  
11 guardian disclosing:

12 (1) that providers and payors may be sending the  
13 child's immunization information to the department;

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

15 (3) the persons to whom the information may be  
16 released under Sections 161.00735(b) and ~~Section~~ 161.008(d);

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

18 (5) the procedure to exclude a child from the  
19 registry; and

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

23 SECTION 4. Section 161.0073(a), Health and Safety Code, is  
24 amended to read as follows:

25 (a) Except as provided by Sections ~~Section~~ 161.00705 and  
26 161.00735, information that individually identifies a child or  
27 other individual that is received by the department for the

1 immunization registry is confidential and may be used by the  
2 department for registry purposes only.

3 SECTION 5. Subchapter A, Chapter 161, Health and Safety  
4 Code, is amended by adding Section 161.00735 to read as follows:

5 Sec. 161.00735. RELEASE AND RECEIPT OF REGISTRY DATA IN  
6 DISASTER. (a) In this section, "disaster" has the meaning assigned  
7 by Section 418.004, Government Code.

8 (b) If the department determines that residents of this  
9 state have evacuated or relocated to another state in response to a  
10 disaster, the department may release registry data, except registry  
11 data obtained under Section 161.00705, to the appropriate health  
12 authority of that state or to local health authorities in that  
13 state.

14 (c) The department may receive immunization information  
15 from a health authority of another state or from a local health  
16 authority in another state if the department determines that  
17 residents of that state have evacuated or relocated to this state in  
18 response to a disaster. The department shall include information  
19 received under this subsection in the registry. Notwithstanding  
20 Section 161.007, the department is not required to obtain written  
21 consent for the inclusion in the registry of information received  
22 under this subsection.

23 (d) Immunization information received under Subsection (c)  
24 is subject to Section 161.0073, and may not be released except as  
25 authorized by this chapter.

26 (e) The executive commissioner of the Health and Human  
27 Services Commission, by rule, shall determine the period during

1 which the information collected under Subsection (c) must remain in  
2 the immunization registry following the end of the disaster.

3 (f) Unless an individual or, if a child, the child's parent,  
4 managing conservator, or guardian consents in writing to continued  
5 inclusion of the individual's or child's information in the  
6 registry, the department shall remove the immunization records  
7 collected under Subsection (c) from the registry on the expiration  
8 of the period prescribed by Subsection (e).

9 (g) If an individual or, if a child, the child's parent,  
10 managing conservator, or guardian requests in writing that the  
11 individual's or child's information obtained under Subsection (c)  
12 be removed from the registry, the department shall remove that  
13 information from the registry.

14 (h) The executive commissioner of the Health and Human  
15 Services Commission shall make every effort to enter into a  
16 memorandum of agreement with each state to which residents of this  
17 state are likely to evacuate in a disaster on:

18 (1) the release and use of registry information under  
19 this section to the appropriate health authority or local health  
20 authority of that state, including the length of time the  
21 information may be retained by that state; and

22 (2) the receipt and use of information submitted by  
23 the health authority or local health authority of that state for  
24 inclusion in the registry under this section.

25 SECTION 6. Section 161.009(a), Health and Safety Code, is  
26 amended to read as follows:

27 (a) A person commits an offense if the person:

1           (1) negligently releases or discloses immunization  
2 registry information in violation of Section 161.007, 161.0071,  
3 161.0073, or 161.008;

4           (2) fails to exclude a child's immunization  
5 information in violation of Section 161.0071;

6           (3) fails to remove a person's immunization  
7 information in violation of Section 161.00705, ~~[or]~~ 161.00706, or  
8 161.00735; or

9           (4) negligently uses information in the immunization  
10 registry to solicit new patients or clients or for other purposes  
11 that are not associated with immunization or quality-of-care  
12 purposes, unless authorized under this section.

13           SECTION 7. This Act takes effect September 1, 2009.