

By: Zaffirini

S.B. No. 56

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the inclusion and exclusion of certain information as  
3 part of the immunization registry.

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

5 SECTION 1. Sections 161.007(a), (b), (b-1), (c), (d), (e),  
6 and (f), Health 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 communicable disease  
11 prevention and control efforts, shall establish and maintain an  
12 immunization registry. The executive commissioner of the Health  
13 and Human Services Commission by rule shall develop guidelines to:

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

16 (2) inform the individual or the individual's legally  
17 authorized representative about the registry and that registry  
18 information may be released under Section 161.00735;

19 (3) for an individual younger than 18 years of age,  
20 permit [~~require the written or electronic consent of the individual~~  
21 ~~or~~] the individual's legally authorized representative to have the  
22 individual excluded from [~~before any information relating to the~~  
23 ~~individual is included in~~] the registry; and

24 (4) for an individual 18 years of age or older:

1           (A) require the consent of the individual or the  
2 individual's legally authorized representative for continued  
3 inclusion in the registry;

4           (B) permit the individual or the individual's  
5 legally authorized representative to withdraw consent for the  
6 individual to be included in the registry; and

7           (C) [~~5~~] determine the process by which consent  
8 is verified before the inclusion of any individually identifiable  
9 information in the registry~~[, including affirmation by a health~~  
10 ~~care provider, birth registrar, regional health information~~  
11 ~~exchange, or local immunization registry that consent has been~~  
12 ~~obtained].~~

13           (b) Except as provided by Section 161.0071, the  
14 immunization registry must contain information on the immunization  
15 history that is obtained by the department under:

16           (1) this section of each individual:

17           (A) younger than 18 years of age for whom  
18 exclusion from the registry has not been requested; and

19           (B) 18 years of age or older for whom consent to  
20 remain in the registry has been obtained in accordance with  
21 guidelines adopted under Subsection [~~(a) or~~] (a-3)~~[, as~~  
22 ~~applicable];~~

23           (2) Section 161.00705 of persons immunized to prepare  
24 for or in response to a declared disaster, public health emergency,  
25 terrorist attack, hostile military or paramilitary action, or  
26 extraordinary law enforcement emergency;

27           (3) Section 161.00706 of first responders or their

1 immediate family members; and

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

4 (b-1) [~~The department shall remove from the registry~~  
5 ~~information for any individual for whom consent has been~~  
6 ~~withdrawn.~~] The department may not retain and must remove from the  
7 registry individually identifiable information about any  
8 individual:

9 (1) younger than 18 years of age for whom a request to  
10 be excluded from the registry has been received under this section;

11 (2) 18 years of age or older for whom consent to remain  
12 in the registry has not been received, has been withdrawn, or cannot  
13 be verified;

14 (3) [~~(2)~~] for whom a consent for continued inclusion  
15 in the registry following the end of the declared disaster, public  
16 health emergency, terrorist attack, hostile military or  
17 paramilitary action, or extraordinary law enforcement emergency  
18 has not been received under Section 161.00705(f);

19 (4) [~~(3)~~] for whom a request to be removed from the  
20 registry has been received under Section 161.00706(e);

21 (5) [~~(4)~~] for whom consent for continued inclusion in  
22 the registry following the end of a disaster has not been received  
23 under Section 161.00735(f); or

24 (6) [~~(5)~~] for whom a request to remove information  
25 from the registry has been received under Section 161.00735(g).

26 (c) A payor that receives data elements from a health care  
27 provider who administers an immunization to an individual younger

1 than 18 years of age shall provide the data elements to the  
2 department. A payor is required to provide the department with  
3 only the data elements the payor receives from a health care  
4 provider. A payor that receives data elements from a health care  
5 provider who administers an immunization to an individual 18 years  
6 of age or older may provide the data elements to the  
7 department. The data elements shall be submitted in a format  
8 prescribed by the department. The department shall verify consent  
9 to remain in the registry for an individual 18 years of age or older  
10 before including the reported information in the immunization  
11 registry. [~~The department may not retain individually~~  
12 ~~identifiable information about an individual for whom consent~~  
13 ~~cannot be verified.~~]

14 (d) A health care provider who administers an immunization  
15 to an individual younger than 18 years of age shall provide data  
16 elements regarding an immunization to the department. A health  
17 care provider who administers an immunization to an individual 18  
18 years of age or older may submit data elements regarding an  
19 immunization to the department. The data elements shall be  
20 submitted in a format prescribed by the department. [~~The~~  
21 ~~department shall verify consent before including the information in~~  
22 ~~the immunization registry. The department may not retain~~  
23 ~~individually identifiable information about an individual for whom~~  
24 ~~consent cannot be verified.~~]

25 (e) The department shall provide notice to a health care  
26 provider that submits an immunization history for an individual 18  
27 years of age or older for whom consent cannot be verified. The

1 notice shall contain instructions for the individual to ~~[obtaining]~~  
2 consent in accordance with guidelines adopted under Subsections (a)  
3 and (a-3) and for the health care provider to resubmit  
4 ~~[resubmitting]~~ the immunization history to the department.

5 (f) The department and health care providers may use the  
6 registry to provide notices by mail, telephone, personal contact,  
7 or other means to an individual or the individual's legally  
8 authorized representative regarding an individual who is due or  
9 overdue for a particular type of immunization according to the  
10 department's immunization schedule for children or another  
11 analogous schedule recognized by the department for individuals 18  
12 years of age or older. The notice must contain instructions for the  
13 legally authorized representative of an individual younger than 18  
14 years of age to request that future notices not be sent and to  
15 remove the individual's immunization record from the registry and  
16 any registry-related records. The notice must describe the  
17 procedure to report a violation if the individual's immunization  
18 record is included in the registry after requesting exclusion. The  
19 department shall consult with health care providers to determine  
20 the most efficient and cost-effective manner of using the registry  
21 to provide those notices.

22 SECTION 2. Sections 161.0071(a) and (b), Health and Safety  
23 Code, are amended to read as follows:

24 (a) The first time the department receives registry data for  
25 an individual who is younger than 18 years of age or for whom the  
26 department has received consent to remain ~~[be included]~~ in the  
27 registry, the department shall send notice to the individual or the

1 individual's legally authorized representative disclosing:

2 (1) that providers and payors may be sending the  
3 individual's immunization information to the department, but the  
4 department may not keep the information if the individual's legally  
5 authorized representative chooses to exclude the individual from  
6 the registry or, for an individual 18 years of age or older, the  
7 individual or the individual's legally authorized representative  
8 withdraws consent to remain in the registry;

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

10 (3) the persons to whom the information may be  
11 released under Sections 161.00735(b) and 161.008(d);

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

13 (5) the procedure to exclude an individual from the  
14 registry; and

15 (6) the procedure to report a violation if an  
16 individual's information is included in the registry after  
17 exclusion has been requested [~~or consent has been withdrawn~~].

18 (b) On receipt of a written or electronic request to exclude  
19 an individual's immunization records from or on discovering that  
20 consent for an individual 18 years of age or older to remain [~~be~~  
21 ~~included~~] in the registry has not been granted or has been  
22 withdrawn, the department shall exclude the individual's  
23 immunization records from the registry and any other  
24 registry-related department record that individually identifies  
25 the individual.

26 SECTION 3. Section 161.008(c), Health and Safety Code, is  
27 amended to read as follows:

1 (c) The department may obtain the data constituting an  
2 immunization record for an individual from a public health  
3 district, a local health department, the individual or the  
4 individual's legally authorized representative, a physician to the  
5 individual, a payor, or any health care provider licensed or  
6 otherwise authorized to administer vaccines. The department shall  
7 verify consent to remain in the registry for an individual 18 years  
8 of age or older before including the reported information in the  
9 immunization registry. [~~The department may not retain~~  
10 ~~individually identifiable information about an individual for whom~~  
11 ~~consent cannot be verified.~~]

12 SECTION 4. Section 161.0107(c), Health and Safety Code, is  
13 amended to read as follows:

14 (c) The executive commissioner of the Health and Human  
15 Services Commission by rule shall specify:

16 (1) the fields necessary to populate the immunization  
17 registry, including a field that indicates the patient's consent to  
18 remain [~~be listed~~] in the immunization registry for an individual  
19 18 years of age or older [~~has been obtained~~]; and

20 (2) the data standards that must be used for  
21 electronic submission of immunization information.

22 SECTION 5. Section 161.007(a-1), Health and Safety Code, is  
23 repealed.

24 SECTION 6. This Act takes effect September 1, 2011.