

BILL ANALYSIS

C.S.H.B. 2171
By: Sheffield
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the parent, managing conservator, or guardian of a child can consent to placement of the child's immunization records into the state's secure, confidential immunization registry. However, when the child turns 18 years of age, consent must again be obtained to keep those records in the registry or the records will be removed. Interested parties contend that because immunization records are frequently needed, such as when an individual enters or continues school, travels internationally, or changes health care providers, extending the consent age from age 18 to 26 honors the decision to register a child's immunization information and preserves those records for such occasions. C.S.H.B. 2171 seeks to extend the period during which an individual's information is retained in the immunization registry.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.H.B. 2171 amends the Health and Safety Code to require the written or electronic consent of a parent, managing conservator, or guardian of an individual younger than 18 years of age to be submitted to the Department of State Health Services (DSHS) before the individual's 18th birthday for the individual's immunization information to be maintained in the state immunization registry. The bill removes a specification that such written or electronic consent is considered valid until the individual becomes 18 years of age and instead authorizes an individual's immunization information, after the required consent is submitted, to be included in the registry until the individual becomes 26 years of age unless the consent is withdrawn in writing or electronically or renewed after the individual's 18th birthday. The bill specifies that the written or electronic consent required for an individual who is 18 years of age or older is

required to be obtained only one time. The bill increases from 18 years of age or older to 26 years of age or older the age of an individual whose immunization information DSHS is prohibited from including in the registry unless the required consent has been obtained.

C.S.H.B. 2171 requires DSHS, after an individual's 18th birthday, to make a reasonable effort to provide notice to an individual whose immunization information is included in the registry with consent that was provided by a parent, managing conservator, or guardian informing the individual that the individual's immunization records will be included in the registry until the date of the individual's 26th birthday unless the individual or the individual's legally authorized representative withdraws consent in writing or electronically before that date or provides consent for the records to continue to be included in the registry. The bill establishes that a reasonable effort to provide the notice includes at least two attempts by DSHS by telephone, e-mail, regular mail to the individual's last known address, or by general outreach efforts through the individual's health care provider, school district, or institution of higher education.

C.S.H.B. 2171 requires DSHS, after an individual's 25th birthday, to make a reasonable effort to provide notice to an individual whose immunization information is included in the registry with consent that was provided by a parent, managing conservator, or guardian and that has not been renewed by the individual or the individual's legally authorized representative to inform the individual that the individual's immunization records will be included in the immunization registry until the individual's 26th birthday unless the individual or the individual's legally authorized representative renews consent; establishes that a reasonable effort to provide the notice includes at least two attempts by DSHS by telephone, e-mail, regular mail to the individual's last known address, or by general outreach efforts through the individual's health care provider or institution of higher education; and requires DSHS to make a reasonable effort to obtain current contact information for written or electronic notices sent by DSHS under this provision that are returned due to incorrect address information.

C.S.H.B. 2171 repeals Section 161.007 (a-3), Health and Safety Code, relating to the development of guidelines and procedures by rule for obtaining consent for including an individual's immunization information in the registry from the individual after the individual's 18th birthday.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2171 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 161.007, Health and Safety Code, is amended by amending Subsections (a-1), (a-2), (b), and (e) and adding Subsections (a-4), (a-5), and (a-6) to read as follows:

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HOUSE COMMITTEE SUBSTITUTE

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(a-1) The written or electronic consent required by Subsection (a)(3) for an individual younger than 18 years of age is required to be obtained only one time. The written or electronic consent of the

individual's parent, managing conservator, or guardian must be submitted to the department before the individual's 18th birthday. After consent is submitted, the individual's immunization information may be included in the registry [The consent is valid] until the individual becomes 26 [18] years of age unless the consent is withdrawn in writing or electronically, or renewed after the individual's 18th birthday as provided by Subsection (a-2). A parent, managing conservator, or guardian of a minor may provide the consent by using an electronic signature on the minor's birth certificate.

(a-2) The written or electronic consent required by Subsection (a)(3) for an individual who is 18 years of age or older is required to be obtained only one time. An individual's legally authorized representative or the individual, after the individual has attained 18 years of age, may consent in writing or electronically for the individual's information to remain in the registry [~~after the individual's 18th birthday and for the individual's subsequent immunizations to be included in the registry~~]. [~~The written or electronic consent of the minor's legally authorized representative as described by Section 161.0001(1-c)(A) must be submitted to the department before the individual's 18th birthday. The written or electronic consent of the individual or the individual's legally authorized representative as described by Section 161.0001(1-c)(B) or (C) must be submitted to the department not later than the individual's 19th birthday.~~] The consent of the representative or individual is valid until the individual or the individual's legally authorized representative withdraws consent in writing or electronically. The department may not include in the registry the immunization information of an individual who is 26 [18] years of age or older until written or electronic consent has been obtained as provided by this subsection. The department shall coordinate with the Texas Education Agency to distribute materials described in Section 161.0095(a)(2) to students and parents through local school districts.

(a-4) After an individual's 18th birthday, the department shall make a reasonable effort to provide notice to an individual whose immunization information is

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(a-4) After an individual's 18th birthday, the department shall make a reasonable effort to provide notice to an individual whose immunization information is

included in the registry with consent that was provided by a parent, managing conservator, or guardian under Subsection (a-1). The department shall make a reasonable effort to provide the notice required by this subsection by telephone or e-mail or by regular mail to the individual's last known address.

The notice must inform the individual that the individual's immunization records will be included in the registry until the date of the individual's 26th birthday unless the individual or the individual's legally authorized representative:

(1) withdraws consent in writing or electronically before that date; or

(2) provides consent for the records to continue to be included in the registry as provided by Subsection (a-2).

(a-5) After an individual's 25th birthday, the department shall make a reasonable effort to provide notice to an individual whose immunization information is included in the registry with consent that was provided under Subsection (a-1) and has not been renewed under Subsection (a-2). The department shall make a reasonable effort to provide the notice required by this subsection by telephone or e-mail or by regular mail to the individual's last known address.

The notice must inform the individual that the individual's immunization records will be included in the immunization registry until the individual's 26th birthday unless the individual or the individual's legally authorized representative renews consent as provided by Subsection (a-2).

(a-6) The department shall make a reasonable effort to obtain current contact information for written or electronic notices sent by the department under Subsection (a-5) that are returned due to incorrect address information.

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

included in the registry with consent that was provided by a parent, managing conservator, or guardian under Subsection (a-1). The reasonable effort shall include at least two attempts by the department to provide the notice required by this subsection by telephone or e-mail, by regular mail to the individual's last known address, or by general outreach efforts through the individual's health care provider, school district, or institution of higher education. The notice must inform the individual that the individual's immunization records will be included in the registry until the date of the individual's 26th birthday unless the individual or the individual's legally authorized representative:

(1) withdraws consent in writing or electronically before that date; or

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(a-6) The department shall make a reasonable effort to obtain current contact information for written or electronic notices sent by the department under Subsection (a-5) that are returned due to incorrect address information.

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

under:

- (1) this section of each individual for whom consent has been obtained in accordance with guidelines adopted under Subsection (a) [~~or (a-3), as applicable~~];
 - (2) Section 161.00705 of persons immunized to prepare for or in response to a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency;
 - (3) Section 161.00706 of first responders or their immediate family members; and
 - (4) Section 161.00735 of persons evacuated or relocated to this state because of a disaster.
- (e) The department shall provide notice to a health care provider that submits an immunization history for an individual for whom consent cannot be verified. The notice shall contain instructions for obtaining consent in accordance with guidelines adopted under Subsection [Subsections] (a) [~~and (a-3)]~~ and resubmitting the immunization history to the department.

SECTION 2. Section 161.007(a-3), Health and Safety Code, is repealed.

SECTION 3. The changes in law made by this Act to Section 161.007, Health and Safety Code, apply only to immunization information in the immunization registry of a person who turns 18 years of age on or after the effective date of this Act. The immunization information in the immunization registry of a person who turns 18 years of age before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2015.

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- (1) this section of each individual for whom consent has been obtained in accordance with guidelines adopted under Subsection (a) [~~or (a-3), as applicable~~];
 - (2) Section 161.00705 of persons immunized to prepare for or in response to a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency;
 - (3) Section 161.00706 of first responders or their immediate family members; and
 - (4) Section 161.00735 of persons evacuated or relocated to this state because of a disaster.
- (e) The department shall provide notice to a health care provider that submits an immunization history for an individual for whom consent cannot be verified. The notice shall contain instructions for obtaining consent in accordance with guidelines adopted under Subsection [Subsections] (a) [~~and (a-3)]~~ and resubmitting the immunization history to the department.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.