

By: Vo

H.B. No. 2429

Substitute the following for H.B. No. 2429:

By: Dutton

C.S.H.B. No. 2429

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the persons who may consent to the medical care or
3 immunization of a child.

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

5 SECTION 1. Sections 32.001(a), (b), and (d), Family Code,
6 are amended to read as follows:

7 (a) The following persons may consent to medical, dental,
8 psychological, and surgical treatment of a child when the person
9 having the right to consent as otherwise provided by law cannot be
10 contacted and that person has not given actual notice to the
11 contrary:

- 12 (1) a grandparent of the child;
- 13 (2) an adult brother or sister of the child;
- 14 (3) an adult aunt or uncle of the child;
- 15 (4) a stepparent of the child;
- 16 (5) an educational institution in which the child is
17 enrolled that has received written authorization to consent for the
18 child from a parent, managing conservator, guardian, or other
19 person who, under the law of another state or a court order, may
20 [having the right to] consent for the child;
- 21 (6) [~~(5)~~] an adult who has actual care, control, and
22 possession of the child and has written authorization to consent
23 for the child from a parent, managing conservator, guardian, or
24 other person who, under the law of another state or a court order,

1 may [~~having the right to~~] consent for the child;

2 (7) [~~(6)~~] a court having jurisdiction over a suit
3 affecting the parent-child relationship of which the child is the
4 subject;

5 (8) [~~(7)~~] an adult who has [~~responsible for the~~]
6 actual care, control, and possession of a child under the
7 jurisdiction of a juvenile court or committed by a juvenile court to
8 the care of an agency of the state or county;

9 (9) an adult who has actual care, control, and
10 possession of the child as the child's primary caregiver; or

11 (10) [~~(8)~~] a peace officer who has lawfully taken
12 custody of a child [~~minor~~], if the peace officer has reasonable
13 grounds to believe the child [~~minor~~] is in need of immediate medical
14 treatment.

15 (b) Except as otherwise provided by this subsection, the
16 Texas Juvenile Justice Department [~~Youth Commission~~] may consent to
17 the medical, dental, psychological, and surgical treatment of a
18 child committed to the Texas Juvenile Justice Department [~~Youth~~
19 ~~Commission~~] under Title 3 when the person having the right to
20 consent has been contacted and that person has not given actual
21 notice to the contrary. Consent for medical, dental,
22 psychological, and surgical treatment of a child for whom the
23 Department of Family and Protective Services has been appointed
24 managing conservator and who is committed to the Texas Juvenile
25 Justice Department [~~Youth Commission~~] is governed by Sections
26 [266.004](#), [266.009](#), and [266.010](#).

27 (d) A person who consents to the medical treatment of a

1 child [~~minor~~] under this section [~~Subsection (a)(7) or (8)~~] is
2 immune from liability for damages resulting from the examination or
3 treatment of the child [~~minor~~], except to the extent of the person's
4 own acts of negligence. A physician or dentist licensed to practice
5 in this state, or a hospital or medical facility at which a child
6 [~~minor~~] is treated is immune from liability for damages resulting
7 from the examination or treatment of a child [~~minor~~] under this
8 section, except to the extent of the person's own acts of
9 negligence.

10 SECTION 2. Section 32.003(a), Family Code, is amended to
11 read as follows:

12 (a) A child may consent to medical, dental, psychological,
13 and surgical treatment for the child by a licensed physician or
14 dentist if the child:

15 (1) is on active duty with the armed services of the
16 United States of America;

17 (2) is:

18 (A) 16 years of age or older and resides separate
19 and apart from the child's parents, managing conservator, or
20 guardian, with or without the consent of the parents, managing
21 conservator, or guardian and regardless of the duration of the
22 residence; and

23 (B) managing the child's own financial affairs,
24 regardless of the source of the income;

25 (3) consents to the diagnosis and treatment of an
26 infectious, contagious, or communicable disease that is required by
27 law or a rule to be reported by the licensed physician or dentist to

1 a local health officer or the [~~Texas~~] Department of State Health
2 Services, including all diseases within the scope of Section
3 81.041, Health and Safety Code;

4 (4) is unmarried and pregnant and consents to
5 hospital, medical, or surgical treatment, other than abortion,
6 related to the pregnancy;

7 (5) consents to examination and treatment for drug or
8 chemical addiction, drug or chemical dependency, or any other
9 condition directly related to drug or chemical use;

10 (6) is unmarried, is the parent of a child, and has
11 actual custody of his or her child and consents to medical, dental,
12 psychological, or surgical treatment for the child; or

13 (7) is serving a term of confinement in a facility
14 operated by or under contract with the Texas Department of Criminal
15 Justice, unless the treatment would constitute a prohibited
16 practice under Section 164.052(a)(19), Occupations Code.

17 SECTION 3. Sections 32.101(b) and (d), Family Code, are
18 amended to read as follows:

19 (b) If the persons listed in Subsection (a) are not
20 available and the authority to consent is not denied under
21 Subsection (c), consent to the immunization of a child may be given
22 by a person listed in Sections 32.001(a)(1)-(9) [+

23 [~~(1) a grandparent of the child,~~

24 [~~(2) an adult brother or sister of the child,~~

25 [~~(3) an adult aunt or uncle of the child,~~

26 [~~(4) a stepparent of the child,~~

27 [~~(5) an educational institution in which the child is~~

1 ~~enrolled that has written authorization to consent for the child~~
2 ~~from a parent, managing conservator, guardian, or other person who~~
3 ~~under the law of another state or a court order may consent for the~~
4 ~~child;~~

5 ~~[(6) another adult who has actual care, control, and~~
6 ~~possession of the child and has written authorization to consent~~
7 ~~for the child from a parent, managing conservator, guardian, or~~
8 ~~other person who, under the law of another state or a court order,~~
9 ~~may consent for the child;~~

10 ~~[(7) a court having jurisdiction of a suit affecting~~
11 ~~the parent-child relationship of which the minor is the subject;~~

12 ~~[(8) an adult having actual care, control, and~~
13 ~~possession of the child under an order of a juvenile court or by~~
14 ~~commitment by a juvenile court to the care of an agency of the state~~
15 ~~or county; or~~

16 ~~[(9) an adult having actual care, control, and~~
17 ~~possession of the child as the child's primary caregiver].~~

18 (d) The Texas Juvenile Justice Department [~~Youth~~
19 ~~Commission~~] may consent to the immunization of a child committed to
20 it if a parent, managing conservator, or guardian of the child
21 [~~minor~~] or other person who, under the law of another state or court
22 order, may consent for the child [~~minor~~] has been contacted and:

23 (1) refuses to consent; and

24 (2) does not expressly deny to the Texas Juvenile
25 Justice Department [~~Youth Commission~~] the authority to consent for
26 the child.

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