

By: Vo

H.B. No. 2429

A BILL TO BE ENTITLED

AN ACT

relating to the persons who may consent to the medical care or immunization of a child.

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

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

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

(1) a grandparent of the child;

(2) an adult brother or sister of the child;

(3) an adult aunt or uncle of the child;

(4) a stepparent of the child;

(5) an educational institution in which the child is enrolled that has received written authorization to consent for the child from a parent, managing conservator, guardian, or other person who, under the law of another state or a court order, may [having the right to] consent for the child;

(6) [+5] an adult who has actual care, control, and possession of the child and has written authorization to consent for the child from a parent, managing conservator, guardian, or 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 32.002(b), Family Code, is amended to  
11 read as follows:

12 (b) The consent must include:

13 (1) the name of the child;

14 (2) the name of one or both parents, if known, and the  
15 name of any managing conservator or guardian of the child; and

16 (3) the name of the person giving consent and the  
17 person's relationship to the child[+]

18 [~~(4) a statement of the nature of the medical~~  
19 ~~treatment to be given; and~~

20 [~~(5) the date the treatment is to begin~~].

21 SECTION 3. Section 32.003(a), Family Code, is amended to  
22 read as follows:

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

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

1           (2) is[+  
2                   [~~(A)~~] 16 years of age or older and resides  
3 separate and apart from the child's parents, managing conservator,  
4 or guardian, with or without the consent of the parents, managing  
5 conservator, or guardian and regardless of the duration of the  
6 residence; [~~and~~

7                   [~~(B) managing the child's own financial affairs,~~  
8 ~~regardless of the source of the income,~~]

9           (3) consents to the diagnosis and treatment of an  
10 infectious, contagious, or communicable disease that is required by  
11 law or a rule to be reported by the licensed physician or dentist to  
12 a local health officer or the [~~Texas~~] Department of State Health  
13 Services, including all diseases within the scope of Section  
14 81.041, Health and Safety Code;

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

18           (5) consents to examination and treatment for drug or  
19 chemical addiction, drug or chemical dependency, or any other  
20 condition directly related to drug or chemical use; or

21           (6) [~~is unmarried, is the parent of a child, and has~~  
22 ~~actual custody of his or her child and consents to medical, dental,~~  
23 ~~psychological, or surgical treatment for the child, or~~

24           [~~(7)~~] is serving a term of confinement in a facility  
25 operated by or under contract with the Texas Department of Criminal  
26 Justice, unless the treatment would constitute a prohibited  
27 practice under Section 164.052(a)(19), Occupations Code.

1 SECTION 4. Sections 32.101(b) and (d), Family Code, are  
2 amended to read as follows:

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

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

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

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

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

11 [~~(5) an educational institution in which the child is  
12 enrolled that has written authorization to consent for the child  
13 from a parent, managing conservator, guardian, or other person who  
14 under the law of another state or a court order may consent for the  
15 child,~~

16 [~~(6) another adult who has actual care, control, and  
17 possession of the child and has written authorization to consent  
18 for the child from a parent, managing conservator, guardian, or  
19 other person who, under the law of another state or a court order,  
20 may consent for the child,~~

21 [~~(7) a court having jurisdiction of a suit affecting  
22 the parent-child relationship of which the minor is the subject,~~

23 [~~(8) an adult having actual care, control, and  
24 possession of the child under an order of a juvenile court or by  
25 commitment by a juvenile court to the care of an agency of the state  
26 or county, or~~

27 [~~(9) an adult having actual care, control, and~~

1 ~~possession of the child as the child's primary caregiver].~~

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

7 (1) refuses to consent; and

8 (2) does not expressly deny to the Texas Juvenile  
9 Justice Department [~~Youth Commission~~] the authority to consent for  
10 the child.

11 SECTION 5. This Act takes effect September 1, 2015.