

By: Kolkhorst

S.B. No. 74

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the release or disclosure of vaccination or
3 immunization information to certain persons; providing a civil
4 penalty.

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

6 SECTION 1. Subchapter A, Chapter 161, Health and Safety
7 Code, is amended by adding Section 161.0093 to read as follows:

8 Sec. 161.0093. RELEASE OR DISCLOSURE OF VACCINATION OR
9 IMMUNIZATION INFORMATION TO CERTAIN PERSONS PROHIBITED; CIVIL
10 PENALTY. (a) In this section, "health authority" has the meaning
11 assigned by Section 81.003.

12 (b) An employee of the department or a health authority may
13 not release or otherwise disclose to any person an individual's
14 vaccination or immunization information received by the department
15 or health authority unless:

16 (1) the department or health authority, as applicable,
17 obtains the written or electronic consent of the individual or the
18 individual's legally authorized representative;

19 (2) the employee releases or discloses the information
20 to a health care provider in accordance with applicable state and
21 federal laws relating to the privacy, protection, confidentiality,
22 and transmission of health information; or

23 (3) the release or disclosure is otherwise authorized
24 by this subchapter.

1 (c) An individual who releases or discloses vaccination or
2 immunization information in violation of Subsection (b) is liable
3 to this state for a civil penalty in an amount not to exceed \$50,000
4 for each violation. The attorney general may bring an action to
5 collect the civil penalty imposed under this subsection.

6 SECTION 2. Sections 161.007(a) and (j), Health and Safety
7 Code, are amended to read as follows:

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

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

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

20 (3) require the written or electronic consent of the
21 individual or the individual's legally authorized representative
22 before any information relating to the individual is included in
23 the registry;

24 (4) permit the individual or the individual's legally
25 authorized representative to withdraw consent for the individual to
26 be included in the registry; and

27 (5) determine the process by which consent is

1 verified, including affirmation by a health care provider, birth
2 registrar, regional health information exchange, or local
3 immunization registry that consent has been obtained.

4 (j) Except as provided by Sections 161.00705, 161.00706,
5 [~~161.00735(b)~~], and 161.008, information obtained by the
6 department for the immunization registry is confidential and may be
7 disclosed only with the written or electronic consent of the
8 individual or the individual's legally authorized representative.

9 SECTION 3. Section 161.00705(g), Health and Safety Code, is
10 amended to read as follows:

11 (g) The immunization information of a child or other
12 individual received by the department under this section, including
13 individually identifiable information, may be released only:

14 (1) on consent of the individual or, if a child, the
15 child's parent, managing conservator, or guardian; or

16 (2) to a [~~state agency or~~] health care provider
17 consistent with the purposes of this subchapter or the purposes of
18 aiding or coordinating communicable disease prevention and control
19 efforts during a declared disaster, public health emergency,
20 terrorist attack, hostile military or paramilitary action, or
21 extraordinary law enforcement emergency.

22 SECTION 4. Sections 161.00706(c) and (d), Health and Safety
23 Code, are amended to read as follows:

24 (c) The executive commissioner shall:

25 (1) develop rules to ensure that immunization history
26 submitted under Subsection (a)(2) is medically verified
27 immunization information;

1 (2) develop guidelines for use by the department in
2 informing first responders about the registry [~~and that registry~~
3 ~~information may be released under Section 161.00735~~]; and

4 (3) adopt rules necessary for the implementation of
5 this section.

6 (d) A [~~Except as provided by Section 161.00735, a~~] person's
7 immunization history or data received by the department under this
8 section may be released only on consent of the person or to any
9 health care provider licensed or otherwise authorized to administer
10 vaccines.

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

13 (a) The first time the department receives registry data for
14 an individual for whom the department has received consent to be
15 included in the registry, the department shall send notice to the
16 individual or the individual's legally authorized representative
17 disclosing:

18 (1) that providers and payors may be sending the
19 individual's immunization information to the department;

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

21 (3) the persons to whom the information may be
22 released under Section [~~Sections 161.00735(b) and~~] 161.008(d);

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

24 (5) the procedure to exclude an individual from the
25 registry; and

26 (6) the procedure to report a violation if an
27 individual's information is included in the registry after

1 exclusion has been requested or consent has been withdrawn.

2 SECTION 6. Section 161.0073(a), Health and Safety Code, is
3 amended to read as follows:

4 (a) Except as provided by Section [~~Sections~~] 161.00705 [~~and~~
5 ~~161.00735~~], information that individually identifies an individual
6 that is received by the department for the immunization registry is
7 confidential and may be used by the department for registry
8 purposes only.

9 SECTION 7. The heading to Section 161.00735, Health and
10 Safety Code, is amended to read as follows:

11 Sec. 161.00735. [~~RELEASE AND~~] RECEIPT OF REGISTRY DATA IN
12 DISASTER.

13 SECTION 8. Section 161.00735(h), Health and Safety Code, is
14 amended to read as follows:

15 (h) The executive commissioner shall make every effort to
16 enter into a memorandum of agreement with each state from [~~to~~] which
17 residents of that [~~this~~] state are likely to evacuate to this state
18 in a disaster on[+]

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

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

26 SECTION 9. Section 161.0075, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 161.0075. IMMUNITY FROM LIABILITY. Except as provided
2 by Sections [~~Section~~] 161.009 and 161.0093, the following persons
3 subject to this subchapter that act in compliance with Sections
4 161.007, 161.00705, 161.00706, 161.0071, 161.0073, 161.0074, and
5 161.008 are not civilly or criminally liable for furnishing the
6 information required under this subchapter:

- 7 (1) a payor;
- 8 (2) a health care provider who administers
9 immunizations; and
- 10 (3) an employee of the department.

11 SECTION 10. Section 161.008(d), Health and Safety Code, is
12 amended to read as follows:

13 (d) The department may release the data constituting an
14 immunization record for the individual to:

- 15 (1) a health care provider treating the individual or
16 an organization to which the individual is a member [~~any entity that~~
17 ~~is described by Subsection (c)~~]; or
- 18 (2) [~~a school or child care facility in which the~~
19 ~~individual is enrolled,~~
- 20 [~~(3) a state agency having legal custody of the~~
21 ~~individual, or~~
- 22 [~~(4)~~] an employer of a first responder or a first
23 responder in accordance with Section 161.00708.

24 SECTION 11. Section 161.00735(b), Health and Safety Code,
25 is repealed.

26 SECTION 12. The changes in law made by this Act apply only
27 to the release or disclosure of information on or after the

1 effective date of this Act. The release or disclosure of
2 information before the effective date of this Act is governed by the
3 law in effect when the release or disclosure was made, and the
4 former law is continued in effect for that purpose.

5 SECTION 13. This Act takes effect December 1, 2021.