

By: Jetton

H.B. No. 120

A BILL TO BE ENTITLED

AN ACT

1
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. PROHIBITED RELEASE OR DISCLOSURE OF
9 VACCINATION OR IMMUNIZATION INFORMATION TO CERTAIN PERSONS; CIVIL
10 PENALTY. (a) In this section, "health authority" has the meaning
11 assigned by Section 81.003.

12 (b) An employee or agent of the department or a health
13 authority may not release or otherwise disclose to any person an
14 individual's vaccination or immunization information received by
15 the department 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 or agent releases or discloses the
20 information to a health care provider in accordance with applicable
21 state and federal laws relating to the privacy, protection,
22 confidentiality, and transmission of health information; or

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

1 (c) A person who obtains an individual's vaccination or
2 immunization information under this subchapter may not release or
3 otherwise disclose the information to a third party, including
4 under a contract or subcontract, for the purpose of encouraging
5 individuals to obtain a vaccine or to provide educational materials
6 on a vaccine.

7 (d) A person who releases or discloses vaccination or
8 immunization information in violation of Subsection (b) or (c) is
9 liable to this state for a civil penalty in an amount of not less
10 than \$2,000 and not more than \$50,000 for each violation. The
11 attorney general may bring an action to collect the civil penalty
12 imposed under this subsection.

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

15 (a) The department, for the primary purpose of establishing
16 and maintaining a single repository of accurate, complete, and
17 current immunization records to be used in aiding, coordinating,
18 and promoting efficient and cost-effective communicable disease
19 prevention and control efforts, shall establish and maintain an
20 immunization registry. The executive commissioner by rule shall
21 develop guidelines to:

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

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

27 (3) require the written or electronic consent of the

1 individual or the individual's legally authorized representative
2 before any information relating to the individual is included in
3 the registry;

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

7 (5) determine the process by which consent is
8 verified, including affirmation by a health care provider, birth
9 registrar, regional health information exchange, or local
10 immunization registry that consent has been obtained.

11 (j) Except as provided by Sections 161.00705, 161.00706,
12 [~~161.00735(b)~~], and 161.008, information obtained by the
13 department for the immunization registry is confidential and may be
14 disclosed only with the written or electronic consent of the
15 individual or the individual's legally authorized representative.

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

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

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

23 (2) to a [~~state agency or~~] health care provider
24 consistent with the purposes of this subchapter or the purposes of
25 aiding or coordinating communicable disease prevention and control
26 efforts during a declared disaster, public health emergency,
27 terrorist attack, hostile military or paramilitary action, or

1 extraordinary law enforcement emergency.

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

4 (c) The executive commissioner shall:

5 (1) develop rules to ensure that immunization history
6 submitted under Subsection (a)(2) is medically verified
7 immunization information;

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

11 (3) adopt rules necessary for the implementation of
12 this section.

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

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

20 (a) The first time the department receives registry data for
21 an individual for whom the department has received consent to be
22 included in the registry, the department shall send notice to the
23 individual or the individual's legally authorized representative
24 disclosing:

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

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

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

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

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

6 (6) the procedure to report a violation if an
7 individual's information is included in the registry after
8 exclusion has been requested or consent has been withdrawn.

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

11 (a) Except as provided by Section [~~Sections~~] 161.00705 [~~and~~
12 ~~161.00735~~], information that individually identifies an individual
13 that is received by the department for the immunization registry is
14 confidential and may be used by the department for registry
15 purposes only.

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

18 Sec. 161.00735. [~~RELEASE AND~~] RECEIPT OF REGISTRY DATA IN
19 DISASTER.

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

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

26 [~~(1) the release and use of registry information under~~
27 ~~this section to the appropriate health authority or local health~~

1 ~~authority of that state, including the length of time the~~
2 ~~information may be retained by that state; and~~

3 [~~2~~] the receipt and use of information submitted by
4 the health authority or local health authority of that state for
5 inclusion in the registry under this section.

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

8 Sec. 161.0075. IMMUNITY FROM LIABILITY. Except as provided
9 by Sections [~~Section~~] 161.009 and 161.0093, the following persons
10 subject to this subchapter that act in compliance with Sections
11 161.007, 161.00705, 161.00706, 161.0071, 161.0073, 161.0074, and
12 161.008 are not civilly or criminally liable for furnishing the
13 information required under this subchapter:

- 14 (1) a payor;
15 (2) a health care provider who administers
16 immunizations; and
17 (3) an employee of the department.

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

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

22 (1) a health care provider treating the individual or
23 an organization to which the individual is a member [~~any entity that~~
24 ~~is described by Subsection (c)] ; or~~

25 (2) [~~a school or child care facility in which the~~
26 ~~individual is enrolled,~~

27 [~~3~~] ~~a state agency having legal custody of the~~

1 ~~individual, or~~

2 ~~[(4)]~~ an employer of a first responder or a first
3 responder in accordance with Section 161.00708.

4 SECTION 11. Section 161.00735(b), Health and Safety Code,
5 is repealed.

6 SECTION 12. The changes in law made by this Act apply only
7 to the release or disclosure of information on or after the
8 effective date of this Act. The release or disclosure of
9 information before the effective date of this Act is governed by the
10 law in effect when the release or disclosure was made, and the
11 former law is continued in effect for that purpose.

12 SECTION 13. This Act takes effect February 1, 2022.