

1-1 By: Klick, et al. (Senate Sponsor - Kolthorst) H.B. No. 4272
 1-2 (In the Senate - Received from the House May 10, 2021;
 1-3 May 12, 2021, read first time and referred to Committee on Health &
 1-4 Human Services; May 21, 2021, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
 1-6 May 21, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 4272 By: Seliger

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to requirements for and prohibited uses of information
 1-22 contained in the immunization registry.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Sections 161.007(a) and (a-1), Health and Safety
 1-25 Code, are amended to read as follows:

1-26 (a) The department, for the primary purpose of establishing
 1-27 and maintaining a single repository of accurate, complete, and
 1-28 current immunization records to be used in aiding, coordinating,
 1-29 and promoting efficient and cost-effective communicable disease
 1-30 prevention and control efforts, shall establish and maintain an
 1-31 immunization registry. The executive commissioner by rule shall
 1-32 develop guidelines to:

1-33 (1) protect the confidentiality of patients in
 1-34 accordance with Section 159.002, Occupations Code;

1-35 (2) inform the individual or the individual's legally
 1-36 authorized representative about the registry and that registry
 1-37 information may be released under Section 161.00735;

1-38 (3) require the written or electronic consent of the
 1-39 individual or the individual's legally authorized representative
 1-40 before any information relating to the individual is included in
 1-41 the registry;

1-42 (4) permit the individual or the individual's legally
 1-43 authorized representative to withdraw consent for the individual to
 1-44 be included in the registry; ~~and~~

1-45 (5) determine the process by which consent for the
 1-46 individual's information to be included in the registry is
 1-47 verified, including affirmation by a health care provider, birth
 1-48 registrar, regional health information exchange, or local
 1-49 immunization registry that consent has been obtained; and

1-50 (6) determine the process by which the immunization
 1-51 information of a first responder or immediate family member of a
 1-52 first responder may be accessed under Section 161.00708.

1-53 (a-1) The written or electronic consent required by
 1-54 Subsection (a)(3) for an individual ~~[younger than 18 years of age]~~
 1-55 is required to be obtained only one time. The written or electronic
 1-56 consent of the individual, or, for a minor child, the individual's
 1-57 parent, managing conservator, or guardian must be submitted to the
 1-58 department ~~[before the individual's 18th birthday]~~. After consent
 1-59 is submitted, the individual's immunization information may be
 1-60 included in the registry ~~[until the individual becomes 26 years of~~

2-1 ~~age~~] unless the consent is withdrawn in writing or electronically[
 2-2 ~~or renewed after the individual's 18th birthday as provided by~~
 2-3 ~~Subsection (a-2)]~~. A parent, managing conservator, or guardian of a
 2-4 minor may provide the consent by using an electronic signature on
 2-5 the minor's birth certificate.

2-6 SECTION 2. Section 161.00705, Health and Safety Code, is
 2-7 amended by amending Subsections (d) and (e) and adding Subsections
 2-8 (f-1), (f-2), (f-3), and (f-4) to read as follows:

2-9 (d) Sections 161.007, 161.0071, 161.0072, [~~and~~] 161.0074,
 2-10 and 161.008 apply to the data elements submitted to the department
 2-11 under this section, unless a provision in those sections conflicts
 2-12 with a requirement in this section.

2-13 (e) The [~~executive commissioner by rule shall determine the~~
 2-14 ~~period during which the~~] information collected under this section
 2-15 must remain in the immunization registry for seven years following
 2-16 the end of the disaster, public health emergency, terrorist attack,
 2-17 hostile military or paramilitary action, or extraordinary law
 2-18 enforcement emergency.

2-19 (f-1) The executive commissioner by rule shall develop
 2-20 guidelines and procedures for obtaining the consent required by
 2-21 Subsection (f) from an individual or the individual's legally
 2-22 authorized representative for continued inclusion in the registry
 2-23 of information collected under this section beyond the period
 2-24 prescribed by Subsection (e).

2-25 (f-2) The department shall make a reasonable effort to
 2-26 provide notice to an individual or an individual's legally
 2-27 authorized representative of the inclusion of the individual's
 2-28 immunization history in the registry under this section if the
 2-29 consent required under Subsection (f) has not been obtained before
 2-30 expiration of the period prescribed by Subsection (e). The
 2-31 reasonable effort shall include at least two attempts by the
 2-32 department to provide the notice required by this subsection by
 2-33 telephone or e-mail, or by regular mail to the last known address of
 2-34 the individual or the individual's legally authorized
 2-35 representative. The notice must inform the individual or the
 2-36 individual's legally authorized representative that the
 2-37 individual's immunization records collected under this section
 2-38 will be removed from the immunization registry on the expiration of
 2-39 the period prescribed under Subsection (e) unless the individual or
 2-40 the individual's legally authorized representative consents to
 2-41 continued inclusion as provided by Subsection (f).

2-42 (f-3) The department shall make a reasonable effort to
 2-43 obtain current contact information for written or electronic
 2-44 notices sent by the department under Subsection (f-2) that are
 2-45 returned due to incorrect address information.

2-46 (f-4) Consent for inclusion in the immunization registry
 2-47 obtained under Section 161.007(a-1) must meet the consent
 2-48 requirements of Subsection (f).

2-49 SECTION 3. Section 161.00708, Health and Safety Code, is
 2-50 amended to read as follows:

2-51 Sec. 161.00708. ACCESS TO FIRST RESPONDER AND IMMEDIATE
 2-52 FAMILY MEMBER IMMUNIZATION HISTORY. (a) The department shall
 2-53 establish a process to provide an employer of a first responder with
 2-54 direct access to the first responder's immunization information in
 2-55 the immunization registry for verification of the first responder's
 2-56 immunization history. The process must require:

2-57 (1) a first responder to provide electronic or written
 2-58 consent before the employer is granted direct access to the first
 2-59 responder's immunization information in the immunization registry;
 2-60 and

2-61 (2) affirmation by the employer that the first
 2-62 responder is a current employee of the employer.

2-63 (b) A first responder may withdraw consent provided under
 2-64 Subsection (a)(1) at any time.

2-65 (c) [~~(b)~~] The department may establish a process to provide
 2-66 a first responder or an immediate family member of a first responder
 2-67 with access to the individual's own [first responder's]
 2-68 immunization information in the immunization registry.

2-69 SECTION 4. Subchapter A, Chapter 161, Health and Safety

3-1 Code, is amended by adding Section 161.00709 to read as follows:
3-2 Sec. 161.00709. CONSENT PORTAL. The department shall
3-3 develop and maintain a secure Internet portal accessible through
3-4 the department's Internet website through which an individual or
3-5 the individual's legally authorized representative may request
3-6 exclusion of the individual's immunization records from the
3-7 registry in accordance with Section 161.0071(f).

3-8 SECTION 5. Section 161.0071, Health and Safety Code, is
3-9 amended by adding Subsection (f) to read as follows:

3-10 (f) An individual or the individual's legally authorized
3-11 representative may request exclusion of the individual's
3-12 immunization records from the registry through a secure portal
3-13 accessed through the department's Internet website.

3-14 SECTION 6. Section 161.00735(e), Health and Safety Code, is
3-15 amended to read as follows:

3-16 (e) ~~The [executive commissioner by rule shall determine the~~
3-17 ~~period during which the]~~ information collected under Subsection (c)
3-18 must remain in the immunization registry for seven years following
3-19 the end of the disaster.

3-20 SECTION 7. Section 161.008, Health and Safety Code, is
3-21 amended by amending Subsections (c) and (d) and adding Subsection
3-22 (c-1) to read as follows:

3-23 (c) The department may obtain the data constituting an
3-24 immunization record for an individual from a public health
3-25 district, a local health department, the individual or the
3-26 individual's legally authorized representative, a physician to the
3-27 individual, a payor, or any health care provider licensed or
3-28 otherwise authorized to administer vaccines.

3-29 (c-1) Except as provided by Section 161.00705, the [The]
3-30 department shall verify consent before including the reported
3-31 information in the immunization registry. The department may not
3-32 retain individually identifiable information about an individual
3-33 for whom consent cannot be verified.

3-34 (d) The department may release the data constituting an
3-35 immunization record for the individual to:

- 3-36 (1) any entity that is described by Subsection (c);
- 3-37 (2) a school or child care facility in which the
3-38 individual is enrolled;
- 3-39 (3) a state agency having legal custody of the
3-40 individual; or
- 3-41 (4) an employer of a first responder, ~~[or]~~ a first
3-42 responder, or an immediate family member of a first responder in
3-43 accordance with Section 161.00708.

3-44 SECTION 8. Subchapter A, Chapter 161, Health and Safety
3-45 Code, is amended by adding Section 161.0085 to read as follows:

3-46 Sec. 161.0085. COVID-19 VACCINE PASSPORTS AND VACCINATION
3-47 AS EMPLOYMENT CONDITION PROHIBITED. (a) In this section,
3-48 "COVID-19" means the 2019 novel coronavirus disease.

3-49 (b) A governmental entity in this state, using information
3-50 from the immunization registry authorized by Section 161.007, may
3-51 not issue a vaccine passport, vaccine pass, or other standardized
3-52 documentation to certify an individual's COVID-19 vaccination
3-53 status to a third party for a purpose other than health care or
3-54 otherwise publish or share any individual's COVID-19 immunization
3-55 record or similar health information for a purpose other than
3-56 health care.

3-57 (c) A business in this state, using information from the
3-58 immunization registry authorized by Section 161.007, may not
3-59 require a customer to provide any documentation certifying the
3-60 customer's COVID-19 vaccination or post-transmission recovery on
3-61 entry to, to gain access to, or to receive service from the
3-62 business. A business that fails to comply with this subsection is
3-63 not eligible to receive a grant or enter into a contract payable
3-64 with state funds.

3-65 (d) An employer in this state, using information from the
3-66 immunization registry authorized by Section 161.007, may not fail
3-67 or refuse to hire, discharge, or otherwise discriminate against an
3-68 individual with respect to compensation or the terms, conditions,
3-69 or privileges of employment because the individual does not provide

4-1 any documentation or other proof certifying the individual's
4-2 COVID-19 vaccination status.

4-3 (e) Notwithstanding any other law, each appropriate state
4-4 agency shall ensure that businesses and employers in this state
4-5 comply with Subsections (c) and (d), as applicable, and may require
4-6 compliance with those subsections as a condition for a license,
4-7 permit, or other state authorization necessary for conducting
4-8 business or employing individuals in this state.

4-9 (f) This section may not be construed to:
4-10 (1) restrict a business or employer from implementing
4-11 COVID-19 screening and infection control protocols in accordance
4-12 with state and federal law to protect public health; or
4-13 (2) interfere with an individual's right to access the
4-14 individual's personal health information under federal law.

4-15 SECTION 9. Section 161.0107, Health and Safety Code, is
4-16 amended by amending Subsection (c) and adding Subsection (e) to
4-17 read as follows:

4-18 (c) The executive commissioner by rule shall specify:
4-19 (1) the fields necessary to populate the immunization
4-20 registry, including a "yes" or "no" field that indicates the
4-21 patient's consent to be listed in the immunization registry has
4-22 been obtained; and
4-23 (2) the data standards that must be used for
4-24 electronic submission of immunization information.

4-25 (e) The fields and data standards described by Subsection
4-26 (c) may not include demographic information relating to the
4-27 patient.

4-28 SECTION 10. Sections 161.007(a-2), (a-3), (a-4), (a-5), and
4-29 (a-6), Health and Safety Code, are repealed.

4-30 SECTION 11. As soon as practicable after the effective date
4-31 of this Act, the Department of State Health Services shall develop
4-32 the Internet portal required by Section 161.00709, Health and
4-33 Safety Code, as added by this Act.

4-34 SECTION 12. This Act takes effect September 1, 2021.

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