

House Bill 4272
Senate Amendments
Section-by-Section Analysis

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

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

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

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

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

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

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

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

(a-1) The written or electronic consent required by Subsection (a)(3) for an individual ~~[younger than 18 years of age]~~ is required to be obtained only one time. The written or

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electronic consent of the individual, or, for a minor child, the individual's parent, managing conservator, or guardian must be submitted to the department ~~[before the individual's 18th birthday]~~. After consent is submitted, the individual's immunization information may be included in the registry ~~[until the individual becomes 26 years of age]~~ unless the consent is withdrawn in writing or electronically~~[, or renewed after the individual's 18th birthday as provided by Subsection (a-2)]~~. A parent, managing conservator, or guardian of a minor may provide the consent by using an electronic signature on the minor's birth certificate.

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

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

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

(f-1) The executive commissioner by rule shall develop guidelines and procedures for obtaining the consent required by Subsection (f) from an individual or the individual's legally authorized representative for continued inclusion in the registry of information collected under this section beyond the

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

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

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

(f-1) The executive commissioner by rule shall develop guidelines and procedures for obtaining the consent required by Subsection (f) from an individual or the individual's legally authorized representative for continued inclusion in the registry of information collected under this section beyond the

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period prescribed by Subsection (e).

(f-2) For an individual whose immunization history is included in the registry under this section and for whom the consent required under Subsection (f) for continued inclusion has not been obtained from the individual or the individual's legally authorized representative, prior to the expiration of the period prescribed by Subsection (e), the department shall make a reasonable effort to provide notice to the individual or the individual's legally authorized representative. The reasonable effort shall include at least two attempts by the department to provide the notice required by this subsection by telephone or e-mail, or by regular mail to the last known address of the individual or the individual's legally authorized representative. The notice must inform the individual or the individual's legally authorized representative that the individual's immunization records collected under this section will be removed from immunization registry on the expiration of the period prescribed under Subsection (e) unless the individual or the individual's legally authorized representative consents to continued inclusion as provided by Subsection (f).

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

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

SECTION 3. Section 161.00708, Health and Safety Code, is amended to read as follows:
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period prescribed by Subsection (e).

(f-2) The department shall make a reasonable effort to provide notice to an individual or an individual's legally authorized representative of the inclusion of the individual's immunization history in the registry under this section if the consent required under Subsection (f) has not been obtained before expiration of the period prescribed by Subsection (e).

The reasonable effort shall include at least two attempts by the department to provide the notice required by this subsection by telephone or e-mail, or by regular mail to the last known address of the individual or the individual's legally authorized representative. The notice must inform the individual or the individual's legally authorized representative that the individual's immunization records collected under this section will be removed from the immunization registry on the expiration of the period prescribed under Subsection (e) unless the individual or the individual's legally authorized representative consents to continued inclusion as provided by Subsection (f).

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

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

SECTION 3. Same as House version.

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IMMEDIATE FAMILY MEMBER IMMUNIZATION HISTORY. (a) The department shall establish a process to provide an employer of a first responder with direct access to the first responder's immunization information in the immunization registry for verification of the first responder's immunization history. The process must require:

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

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

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

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

SECTION 4. Section 161.0071, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) An individual or the individual's legally authorized representative may request to exclude the individual's immunization records from the registry through a secure portal accessed through the department's website.

SECTION 5. Section 161.00735(e), Health and Safety Code, is amended to read as follows:

(e) The ~~[executive commissioner by rule shall determine the]~~

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

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

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

(e) The ~~[executive commissioner by rule shall determine the]~~

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~~period during which the~~ information collected under Subsection (c) must remain in the immunization registry following the end of the disaster is seven years.

SECTION 6. Section 161.008, Health and Safety Code, is amended by amending Subsections (c) and (d) to read as follows:

(c) The department may obtain the data constituting an immunization record for an individual from a public health district, a local health department, the individual or the individual's legally authorized representative, a physician to the individual, a payor, or any health care provider licensed or otherwise authorized to administer vaccines. Except as provided by Section 161.00705, the [The] department shall verify consent before including the reported information in the immunization registry and [~~The department~~] may not retain individually identifiable information about an individual for whom consent cannot be verified.

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

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

No equivalent provision.

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~~period during which the~~ information collected under Subsection (c) must remain in the immunization registry for seven years following the end of the disaster.

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

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

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

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

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

SECTION 8. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.0085 to read as

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follows:

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

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

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

(d) Except as provided by Subsection (d-1), an employer in this state, using information from the immunization registry authorized by Section 161.007, may not fail or refuse to hire, discharge, or otherwise discriminate against an individual with respect to compensation or the terms, conditions, or privileges of employment because the individual does not provide any documentation or other proof certifying the individual's COVID-19 vaccination status. [FA1(1)]

(d-1) Subsection (d) does not apply to a health care facility, as defined by Section 224.001. [FA1(2)]

(e) Notwithstanding any other law, each appropriate state

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agency shall ensure that businesses and employers in this state comply with Subsections (c) and (d), as applicable, and may require compliance with those subsections as a condition for a license, permit, or other state authorization necessary for conducting business or employing individuals in this state.

(f) This section may not be construed to:

(1) restrict a business or employer from implementing COVID-19 screening and infection control protocols in accordance with state and federal law to protect public health;

or

(2) interfere with an individual's right to access the individual's personal health information under federal law.

SECTION 7. Section 161.0107, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

(c) The executive commissioner by rule shall specify:

(1) the fields necessary to populate the immunization registry, including a "yes" or "no" field that indicates the patient's consent to be listed in the immunization registry has been obtained; and

(2) the data standards that must be used for electronic submission of immunization information.

(e) The fields and data standards specified in Subsection (c) relating to a patient's consent to be included in the registry shall not include demographic information relating to the patient.

SECTION 8. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.00709 to read as

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

(c) The executive commissioner by rule shall specify:

(1) the fields necessary to populate the immunization registry, including a "yes" or "no" field that indicates the patient's consent to be listed in the immunization registry has been obtained; and

(2) the data standards that must be used for electronic submission of immunization information.

(e) The fields and data standards described by Subsection (c) relating to a patient's consent may not include demographic information relating to the patient. [FA2]

SECTION 4. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.00709 to read as

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follows:

Sec. 161.00709. CONSENT PORTAL. The department shall develop and maintain a secure Internet portal through which an individual or the individual's legally authorized representative may request to exclude the individual's immunization records from the registry in accordance with Section 161.0071(f).

SECTION 9. Sections 161.007(a-2), (a-3), (a-4), (a-5), and (a-6), Health and Safety Code, are repealed.

SECTION 10. As soon as practicable after **September 1, 2021**, the Department of State Health Services shall develop the Internet portal required by Section 161.00709, Health and Safety Code, as added by this Act.

SECTION 11. This Act takes effect September 1, 2021.

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follows:

Sec. 161.00709. CONSENT PORTAL. The department shall develop and maintain a secure Internet portal accessible through the department's Internet website through which an individual or the individual's legally authorized representative may request exclusion of the individual's immunization records from the registry in accordance with Section 161.0071(f).

SECTION 10. Same as House version.

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

SECTION 12. Same as House version.

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