**BILL ANALYSIS**

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| Senate Research Center | C.S.S.B. 95 |
| 89R21488 EAS-F | By: Hall |
|  | Health & Human Services |
|  | 4/1/2025 |
|  | Committee Report (Substituted) |

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Vaccines are certainly important, and in many cases, life-saving. However, they can also bear significant adverse reactions–sometimes creating more health issues than the one they were administered to solve. It is crucial that those who administer vaccines conduct due diligence prior to administration, so that individuals and their parents may make truly informed decisions, rather than blindly trusting the efficacy and safety of any given vaccine. In many healthcare services, the responsibility for obtaining informed consent is placed on the provider, not the patient. It ought to be the same for immunizations, especially when the safety of Texas children is on the line.

Federal law requires that individuals consenting to a particular vaccine be provided with the corresponding Vaccine Information Statement (VIS) produced by the Centers for Disease Control that explains the benefits and risks of the vaccine. Federal anti-kickback law prohibits healthcare providers from receiving benefits in any form for services provided. However, similar to the VIS guidelines, this is often ignored, as vaccine manufacturers vie for consumers and push their product.

Measures are needed to enforce these existing protections, and ensure that due process is conducted in immunizations for children, so as to promote both public safety and personal liberty.

This Committee Substitute Would:

• Place the responsibility of obtaining written, informed consent on the healthcare provider who is administering the vaccine.

• Codify federal law that requires the CDC Vaccine Information Statements to be given.

• Create liability of $10,000 or less for a provider who fails to obtain informed consent for each vaccine and provide that an immunization administered to a child without informed consent is not authorized.

• Codify federal anti-kickback law to explicitly prohibit an administer of a vaccine from receiving a bonus or kickback from a vaccine manufacturer; create a penalty for an individual who receives a kickback of $5,000 or ten times the amount of the kickback received, whichever is higher.

C.S.S.B. 95 amends current law relating to the administration of immunizations to children, including required written informed consent to those immunizations and civil liability for failure to obtain the consent and provides an administrative penalty.

**RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Provides that the legislature finds that when a health care provider accepts a bonus, kickback, or any other form of remuneration from a vaccine manufacturer for administering an immunization to a person, the health care provider has a conflict of interest and is less likely to counsel a person on the benefits and risks of immunization before obtaining the person's written informed consent as required by law.

SECTION 2. Amends the heading to Section 32.102, Family Code, to read as follows:

Sec. 32.102. WRITTEN INFORMED CONSENT TO IMMUNIZATION; CERTAIN REMUNERATION PROHIBITED; ADMINISTRATIVE PENALTY; CIVIL LIABILITY.

SECTION 3. Amends Section 32.102, Family Code, by amending Subsections (a) and (c) and adding Subsections (d), (e), (f), (g), and (h), as follows:

(a) Requires a health care provider, before administering an immunization to a child, to obtain the written informed consent of a person authorized to consent to immunization of the child. Deletes existing text providing that a person authorized to consent to the immunization of a child has the responsibility to ensure that the consent, if given, is an informed consent. Makes a nonsubstantive change.

(c) Requires the health care provider, as part of the information given in the counseling for informed consent, to provide the person authorized to consent to immunization with information regarding:

(1) the benefits and risks of immunization, including any vaccine information statement required by the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. Section 300aa-1 et seq.); and

(2) creates this subdivision from existing text and makes a nonsubstantive change.

Makes nonsubstantive changes to this subsection.

(d) Provides that, if a health care provider fails to obtain the written informed consent required by Subsection (a) and the child has an adverse reaction to the immunization that is required by federal law to be reported to the federal Vaccine Adverse Event Reporting System, the provider is liable to the person authorized to consent to the immunization for damages in an amount not to exceed $10,000. Authorizes a claimant, in an action brought under this subsection, to also recover reasonable expenses incurred in bringing the action, including court costs, reasonable attorney's fees, investigation costs, witness fees, and deposition expenses.

(e) Provides that Sections 41.003 (Standards for Recovery of Exemplary Damages) and 41.004 (Factors Precluding Recovery), Civil Practice and Remedies Code, do not apply to an action brought under this section.

(f) Prohibits a health care provider from accepting a bonus, kickback, or any other form of remuneration from a vaccine manufacturer for administering an immunization to a child, except for the necessary costs of administering the immunization.

(g) Provides that, if a health care provider violates Subsection (f), written informed consent obtained by the provider under Subsection (a) is not valid.

(h) Provides that a health care provider who violates Subsection (f) is subject to disciplinary action by the state licensing agency that regulates the provider. Requires the state licensing agency, on determining the provider committed a violation, to impose an administrative penalty against the provider in an amount that equals the greater of $5,000 or 10 times the monetary value of the remuneration the provider received from the vaccine manufacturer in relation to the immunization that is the subject of the violation.

SECTION 4. Amends Section 32.103(b), Family Code, as follows:

(b) Provides that an immunization administered to a child, for purposes of this subsection, is not authorized under Subchapter B (Immunization) if the physician, nurse, or other health care provider failed to obtain informed consent as required by Section 32.102.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: upon passage or September 1, 2025.