

BILL ANALYSIS

Senate Research Center
89R2475 EAS-F

S.B. 95
By: Hall
Health & Human Services
3/14/2025
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In every medical procedure other than immunizations, the responsibility for ensuring a patient has received informed consent for the procedure lies with the health care provider delivering the service. However, in current Texas statute, the individual consenting to this procedure bears the burden of ensuring informed consent has been given prior to receiving the vaccination. Without the necessary information to make a decision, an individual has no way to know whether they have received informed consent.

Federal law requires that individuals consenting to a particular vaccine must be provided with the corresponding vaccine information statement (VIS), a one-page sheet produced by the Centers for Disease Control that explains the benefits and risks of the vaccine. However, this requirement is often ignored in doctor offices, and the statements themselves frequently omit important data included in vaccine package inserts.

Because of this, parents and guardians of children are not routinely provided complete information about the benefits and risks of vaccines, nor are they routinely informed of their rights to file a claim if their children are injured by vaccines.

S.B. 95 would place the responsibility of obtaining informed consent back on the healthcare provider who is administering the vaccine. It would empower parents to make informed decisions regarding vaccinations by codifying federal law that requires the CDC vaccine information statements to be given, providing information on how to file a claim in the event of an adverse reaction prior to consent.

It would also require parents and guardians to be provided a copy of the CDC vaccine excipient summary, which lists the multiple ingredients contained in each vaccine.

It would create liability 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.

As proposed, S.B. 95 amends current law relating to informed consent to immunizations for children and civil liability for failure to obtain the consent.

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

Sec. 32.102. INFORMED CONSENT TO IMMUNIZATION; CIVIL LIABILITY.

SECTION 2. Amends Section 32.102, Family Code, by amending Subsections (a) and (c) and adding Subsections (d) and (e), as follows:

(a) Requires a health care provider, before administering an immunization to a child, to obtain the 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.);

(2) creates this subdivision from existing text and makes nonsubstantive changes; and

(3) the Vaccine Excipient Summary published by the Centers for Disease Control and Prevention for each immunization to be administered.

Makes nonsubstantive changes to this subsection.

(d) Provides that, if a health care provider fails to obtain the informed consent required by Subsection (a) and the child has an adverse reaction to the immunization, the provider is liable to the person authorized to consent to the immunization for damages in an amount of not less than \$5,000. 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.

SECTION 3. 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 4. Makes application of this Act prospective.

SECTION 5. Effective date: upon passage or September 1, 2025.