

- SUBJECT:** Consent for immunization of a minor
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 5 ayes — Berlanga, Hirschi, Glaze, Maxey, McDonald  
0 nays  
4 absent — Coleman, Delisi, Janek, Rodriguez
- WITNESSES:** For — Charles Mallory, Austin/Travis County Health Department  
Against — None
- BACKGROUND:** Family Code sec. 35.011 allows consent for a child’s immunization to be given by a grandparent, adult brother or sister, adult aunt or uncle, a stepparent or educational institution that has family consent in cases when the child’s parent or guardian cannot be contacted.
- DIGEST:** CSHB 2209 would stipulate that a person authorized to consent to the immunization of a minor need not be present when the immunization of the child is requested if a consent form meeting applicable requirements has been given to the health care provider.
- The bill also would specify that those authorized to consent in lieu of a parent could do so *in the absence of* a parent or guardian, rather than when a parent or guardian could not be contacted.
- The bill would repeal Family Code sections relative to the circumstances that establish when a person cannot be contacted, how parents or legal guardians may delegate their authority to another for purposes of immunization of a minor child and to informal guardians seeking judicial orders from the court in order to immunize minor children.
- The bill would take immediate effect if approved by two-thirds of the membership of each house.

**SUPPORTERS  
SAY:**

Many in the health care field interpret current law so strictly that children are not getting immunizations they need and that their families want them to have. A parent or legal guardian or other family member should not have to be on the scene when a child is immunized. Yet some health care facilities will not allow a person, already designated by statute, to consent to a child's immunization, because they believe that the law is unclear in this area and are afraid of potential liability. CSHB 2209 would clarify that in the absence of a parent or guardian various people may consent to an immunization and that the person authorized to consent does not have to be present when the immunization is requested.

CSHB 2209 would make it easier for working parents who want to have another family member or an authorized educational institution oversee immunization. CSHB 2209 would allow, in the absence of a parent, certain individuals already designated by statute to consent to a child's immunization.

CSHB 2209 would serve important health and public policy goals. In 1993 Texas adopted the national goal of immunizing 90 percent of two-year-old children by the year 1996. All Texas children age 17 and under are now required to be immunized. CSHB 2209 would provide another tool in the state's efforts to reach its goal of immunizing almost all children in order that they may lead healthy lives.

**OPPONENTS  
SAY:**

Although immunization of children is highly desirable and should be encouraged, CSHB 2209 could weaken parents' parental rights when it comes to the immunization of their children. The standard "in the absence of" a parent or guardian is ambiguous and unclear, as is the phrase "when the immunization of the minor is requested." The new standard could be construed too liberally, allowing children to be immunized without a parent's knowledge or consent.

**NOTES:**

The committee substitute incorporated technical changes.

The companion bill, SB 1098 by Zaffirini, passed the Senate by 30-0 on the Local and Uncontested Calendar on April 6 and was reported favorably, without amendment, by the House Public Health Committee on April 27. SB 1098 is eligible to be considered in lieu of HB 2209.