

(The House considered SB 347 by Nelson, the Senate companion bill, in lieu of HB 2383, the House version of the bill, which had been set on the daily calendar and was analyzed by the House Research Organization. The bill subsequently was enacted as SB 347.)

HOUSE		HB 2383
RESEARCH		Kolkhorst
ORGANIZATION	bill analysis	(CSHB 2383 by Gonzales)
	4/27/2009	

SUBJECT: Sharing Texas immunization records with other states after disasters

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Kolkhorst, Naishtat, Coleman, J. Davis, Gonzales, Hopson, McReynolds, Zerwas

0 nays

3 absent — S. King, Laubenberg, Truitt

WITNESSES: For — Anna C. Dragsbaek, Houston Area Immunization Partnership; Charles Leach, Texas Pediatric Society, Texas Medical Association and Texas Academy of Family Physicians; (*Registered, but did not testify*: Ed Berger, Seton Family of Hospitals; Shane Casady, Driscoll Children's Hospital; Melody Chatelle, United Ways of Texas; Marshall Kenderdine, Texas Academy of Family Physicians; Bee Moorhead, Texas Impact; Denise Rose, Texas Hospital Association; Rebekah Schroeder, Texas Children's Hospital; Bryan Sperry, Children's Hospital Association)

Against — None

On — Jack Sims, Texas Department of State Health Services

BACKGROUND: ImmTrac is the statewide immunization registry for children from birth to age 18 established under Health and Safety Code, sec. 161.007. This section outlines reporting requirements for providers and insurance companies and stipulates that the Texas Department of State Health Services (DSHS) is required to protect the confidentiality of patients in the registry, disclose information only with the written consent of the child's parent, and permit a parent to withdraw consent for a child to be included in the registry. The records are deleted once a child reaches 18 years of age.

DSHS can use the immunization registry to control and prevent communicable diseases, including sending reminder notices to parents or

guardians about future shots. Otherwise, ImmTrac information must be kept confidential and not released except with written consent from the individual or the individual's legally authorized representatives.

In 2007, the 80th Legislature enacted SB 11 by Carona, which requires DSHS to maintain a registry of persons immunized to prepare for or in response to a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

Government Code, sec. 418.004 defines "disaster" as the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, other public calamity requiring emergency action, or energy emergency.

Health and Safety Code, 161.009 provides that negligent release or disclosure of ImmTrac records or failure to remove or exclude certain records is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

DIGEST:

CSHB 2383 would amend Health and Safety Code, ch. 161 to permit DSHS to share ImmTrac registry information with other state health authorities or local health authorities in other states where Texans have been evacuated or relocated because of a disaster as defined by Government Code, sec. 418.004.

The bill also would allow DSHS to receive immunization registry information from health departments in other states or local governments in other states if residents of those states were evacuated or relocated to Texas because of a disaster. The bill would not require consent for inclusion of the other state's immunization records in the registry maintained by DSHS, but release of any individual's information would require the written consent that is required for Texas residents under Health and Safety Code, sec. 161.0073.

The Health and Human Services Commission (HHSC) executive commissioner would be required to adopt a rule on how long Texas would maintain an out-of-state immunization registry. At the expiration of that period, DSHS would be required to remove those out-of-state records

from ImmTrac. An out-of-state individual, child, or a child's parent, managing conservator, or guardian could remove their information from

the registration or permit Texas to keep their immunization records as part of its ImmTrac system.

CSHB 2383 would require the HHSC executive commissioner to negotiate a memorandum of agreement on procedures for the release, use, and receipt of immunization registries with each state to which Texas residents might be evacuated because of disaster. The agreements could include provisions on how long the Texas information could be retained by other states.

The bill would make it a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) for a failure to remove out-of-state immunization records, either on the request of the individual or a child's parent, managing conservator, or guardian or upon the expiration of the period for maintaining the records.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 2383 would continue the efforts made by Texas to prepare for future emergencies and disasters. Exchange of immunization records among states is permitted under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). Evacuees are required to present immunizations to enroll in Texas public schools, and the bill could prevent over-inoculations or delays in administering immunizations. Access to Louisiana immunization records for Katrina evacuees saved almost \$3 million in the Houston area alone by preventing unnecessary immunizations.

It is prudent public policy to prepare detailed emergency response plans and coordinate efforts among the states and the federal government for disasters and emergencies, even those with an extremely low probability of occurring. Preparing for all emergencies would not be costly but could have huge benefits in the future.

CSHB 2383 would require the HHSC executive commissioner to identify states that might have to receive Texans in the case of an emergency or other disaster and to make a good faith effort to reach memoranda of agreement. Planning could proceed without them, but it would be best not

to wait until a crisis to make decisions. Texas was able to work with Louisiana to secure immunization registry information, but a formal legal

agreement on exchange of the records would benefit emergency responders in both states.

**OPPONENTS
SAY:**

The probability of the type of disaster contemplated in CSHB 2383 is small and preparing a plan for evacuating or relocating Texans to other states may be unnecessary given the size of Texas. Coastal residents fleeing hurricanes Rita and Ike were evacuated to Lufkin and Amarillo, not Oklahoma City and Albuquerque. Any disaster or emergency large enough to require Texans to leave also would affect surrounding states.

NOTES:

The committee substitute differs from the original bill by adding the provisions that would require the HHSC executive director to negotiate memoranda of agreements with other states on the release, use, and receipt of immunization records.

The companion bill, SB 347 by Nelson, passed the Senate by 31-0 on March 19 on the Local and Uncontested Calendar and was reported favorably, without amendment, by the House Public Health Committee on April 9, making it eligible to be considered in lieu of HB 2383.