

BILL ANALYSIS

Senate Research Center
81R3374 YDB-D

S.B. 346
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, parental consent is required for a child to be included in ImmTrac, but records in ImmTrac are automatically deleted when a child turns 18 years of age. However, there are many instances after a person's 18th birthday when immunization records are required. For example, entry into college, the military, and study abroad programs all typically occur after a person turns 18 years of age and necessitate proof of certain immunizations.

As proposed, S.B. 346 provides that a person is allowed to maintain their immunization records in ImmTrac beyond the person's 18th birthday.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Department of Health is transferred to the executive commissioner of the Health and Human Services Commission (HHSC) in SECTION 2 (Section 161.007, Health and Safety Code) and SECTION 6 (Section 161.008, Health and Safety Code) of this bill. Rulemaking authority is expressly granted to the executive commissioner of HHSC in SECTION 2 (Section 161.007, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 161.0001, Health and Safety Code, by adding Subdivision (1-c) to define "individual's legally authorized representative (representative)" and amending Subdivision (2) to redefine "payor."

SECTION 2. Amends Section 161.007, Health and Safety Code, by amending Subsections (a), (a-1), (b), (b-1), (c)-(f), (j), and (k), and adding Subsection (a)-(2), as follows:

(a) Requires the Texas Department of Health (TDH) to establish and maintain an immunization registry to be used in aiding, coordinated, and promoting efficient and cost-effective communicable disease, rather than childhood communicable disease, prevention and control efforts. Requires the executive commissioner of the Health and Human Services Commission (HHSC), rather than TDH, by rule to develop guidelines to inform the individual or the representative, rather than a parent, managing conservator, or guardian of each patient younger than 18 years of age, about the registry and to require the written consent of the individual or representative before any information relating to the individual, rather than patient, is included in the registry. Makes conforming changes.

(a-1) Provides that the written consent required by Subsection (a)(3) for an individual younger than 18 years of age is required to be obtained only one time and is valid, unless withdrawn in writing, until the individual, rather than child, becomes 18 years of age. Authorizes a parent, managing conservator, or guardian of a minor, rather than child, to provide the written consent by using an electronic signature on the minor's, rather than child's, birth certificate.

(a-2) Requires TDH, not later than the 30th day before the 18th birthday of an individual included in the immunization registry, to notify the individual and representative that they are authorized to consent in writing for the individual's information to remain, and subsequent immunizations to be included, in the registry. Requires that the written consent of the representative be submitted to TDH before the individual's 18th birthday and that the written consent of the individual be submitted not later than the 30th day after the individual's 18th birthday. Provides that the written consent of the representative or individual is valid until withdrawn in writing by the representative or individual. Requires the executive commissioner of HHSC by rule to develop guidelines and procedures for obtaining consent from an individual who is 18 years of age, including procedures for retaining information during the 30-day period during which an 18-year old is authorized to consent to inclusion in the registry under this subsection.

(b) Creates an exception under Section 161.0071. Requires that the immunization registry contain information on the immunization history that is obtained by TDH under this section of each individual, rather than person who is younger than 18 years of age, and for whom consent has been obtained in accordance with guidelines adopted under Subsection (a) or (a-2), as applicable.

(b-1) Requires TDH to remove from the registry information for any individual, rather than person, for whom consent has been withdrawn. Makes conforming changes.

(c) Creates text to provide that a payor that receives data elements from a health care provider (provider) who administers an immunization to an individual 18 years of age or older is authorized to provide the data elements to TDH. Makes conforming changes.

(d) Creates text to provide that a provider who administers an immunization to an individual 18 years of age or older is authorized to submit data elements regarding an immunization to TDH. Makes conforming changes.

(e) Requires that the notice provided by TDH to a provider that submits an immunization history for an individual, rather than a person, for whom consent cannot be verified, contain instructions for obtaining consent in accordance with guidelines adopted under Subsections (a) and (a-2).

(f) Authorizes TDH and providers to use the registry to contact an individual or representative of the individual regarding an individual who is due or overdue for a particular type of immunization according to TDH's immunization schedule for children or another analogous schedule recognized by TDH for individuals 18 years of age or older.

(j) Makes conforming changes.

(k) Requires the executive commissioner of HHSC, rather than the Texas Board of Health (TBH), to adopt rules to implement this section.

SECTION 3. Amends Section 161.0071, Health and Safety Code, as follows:

Sec. 161.0071. NOTICE OF RECEIPT OF REGISTRY DATA; EXCLUSION FROM REGISTRY. (a) Requires TDH, the first time TDH receives registry data for an individual for whom TDH has received consent to be included in the registry, to send a written notice to the individual or representative disclosing certain information to include the procedure to report a violation if an individual's information is included in the registry after the exclusion has been requested or consent has been withdrawn. Deletes existing text requiring TDH, the first time TDH receives registry data for a child from a person other than the child's parent, a managing conservator, or guardian, to send written notice to the child's parent, a managing conservator, or guardian. Makes conforming changes.

(b)-(e) Makes conforming changes.

SECTION 4. Amends Section 161.0072, Health and Safety Code, to make conforming changes.

SECTION 5. Amends Sections 161.0073(a)-(c), Health and Safety Code, to make conforming changes.

SECTION 6. Amends Sections 161.008(c)-(e), (g), and (h), to make conforming changes and to require the executive commissioner of HHSC, rather than the Texas Board of Health, to adopt rules to implement this section.

SECTION 7. Amends Section 161.009(a), Health and Safety Code, to make a conforming change.

SECTION 8. Effective date: September 1, 2009.