

1-1 By: Hall, Sparks S.B. No. 95
 1-2 (In the Senate - Filed November 12, 2024; February 3, 2025,
 1-3 read first time and referred to Committee on Health & Human
 1-4 Services; April 7, 2025, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 7, Nays 2;
 1-6 April 7, 2025, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12		X		
1-13	X			
1-14	X			
1-15	X			
1-16		X		
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 95 By: Perry

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the administration of immunizations to children,
 1-22 including required written informed consent to those immunizations
 1-23 and civil liability for failure to obtain the consent; providing an
 1-24 administrative penalty.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. The legislature finds that when a health care
 1-27 provider accepts a bonus, kickback, or any other form of
 1-28 remuneration from a vaccine manufacturer for administering an
 1-29 immunization to a person, the health care provider has a conflict of
 1-30 interest and is less likely to counsel a person on the benefits and
 1-31 risks of immunization before obtaining the person's written
 1-32 informed consent as required by law.

1-33 SECTION 2. The heading to Section 32.102, Family Code, is
 1-34 amended to read as follows:

1-35 Sec. 32.102. WRITTEN INFORMED CONSENT TO IMMUNIZATION;
 1-36 CERTAIN REMUNERATION PROHIBITED; ADMINISTRATIVE PENALTY; CIVIL
 1-37 LIABILITY.

1-38 SECTION 3. Section 32.102, Family Code, is amended by
 1-39 amending Subsections (a) and (c) and adding Subsections (d), (e),
 1-40 (f), (g), and (h) to read as follows:

1-41 (a) Before administering an immunization to a child, a
 1-42 health care provider must obtain the written informed consent of a
 1-43 [A] person authorized to consent to [the] immunization of the [a]
 1-44 child [has the responsibility to ensure that the consent, if given,
 1-45 is an informed consent]. The person authorized to consent is not
 1-46 required to be present when [the] immunization of the child is
 1-47 requested if a consent form that meets the requirements of Section
 1-48 32.002 has been given to the health care provider.

1-49 (c) As part of the information given in the counseling for
 1-50 informed consent, the health care provider shall provide
 1-51 [information to inform] the person authorized to consent to
 1-52 immunization with information regarding:

1-53 (1) the benefits and risks of immunization, including
 1-54 any vaccine information statement required by the National
 1-55 Childhood Vaccine Injury Act of 1986 (42 U.S.C. Section 300aa-1 et
 1-56 seq.); and

1-57 (2) [of] the procedures available under the National
 1-58 Childhood Vaccine Injury Act of 1986 (42 U.S.C. Section 300aa-1 et
 1-59 seq.) to seek possible recovery for unreimbursed expenses for
 1-60 certain injuries arising out of the administration of certain

2-1 vaccines.

2-2 (d) If a health care provider fails to obtain the written
2-3 informed consent required by Subsection (a) and the child has an
2-4 adverse reaction to the immunization that is required by federal
2-5 law to be reported to the federal Vaccine Adverse Event Reporting
2-6 System, the provider is liable to the person authorized to consent
2-7 to the immunization for damages in an amount not to exceed \$10,000.
2-8 In an action brought under this subsection, a claimant may also
2-9 recover reasonable expenses incurred in bringing the action,
2-10 including court costs, reasonable attorney's fees, investigation
2-11 costs, witness fees, and deposition expenses.

2-12 (e) Sections 41.003 and 41.004, Civil Practice and Remedies
2-13 Code, do not apply to an action brought under this section.

2-14 (f) A health care provider may not accept a bonus, kickback,
2-15 or any other form of remuneration from a vaccine manufacturer for
2-16 administering an immunization to a child, except for the necessary
2-17 costs of administering the immunization.

2-18 (g) If a health care provider violates Subsection (f),
2-19 written informed consent obtained by the provider under Subsection
2-20 (a) is not valid.

2-21 (h) A health care provider who violates Subsection (f) is
2-22 subject to disciplinary action by the state licensing agency that
2-23 regulates the provider. On determining the provider committed a
2-24 violation, the agency shall impose an administrative penalty
2-25 against the provider in an amount that equals the greater of:

2-26 (1) \$5,000; or

2-27 (2) 10 times the monetary value of the remuneration
2-28 the provider received from the vaccine manufacturer in relation to
2-29 the immunization that is the subject of the violation.

2-30 SECTION 4. Section 32.103(b), Family Code, is amended to
2-31 read as follows:

2-32 (b) A person consenting to immunization of a child, a
2-33 physician, nurse, or other health care provider, or a public health
2-34 clinic, hospital, or other medical facility is not liable for
2-35 damages arising from an immunization administered to a child
2-36 authorized under this subchapter except for injuries resulting from
2-37 the person's or facility's own acts of negligence. For purposes of
2-38 this subsection, an immunization administered to a child is not
2-39 authorized under this subchapter if the physician, nurse, or other
2-40 health care provider failed to obtain written informed consent as
2-41 required by Section 32.102.

2-42 SECTION 5. The changes in law made by this Act apply only to
2-43 a cause of action that accrues on or after the effective date of
2-44 this Act.

2-45 SECTION 6. This Act takes effect immediately if it receives
2-46 a vote of two-thirds of all the members elected to each house, as
2-47 provided by Section 39, Article III, Texas Constitution. If this
2-48 Act does not receive the vote necessary for immediate effect, this
2-49 Act takes effect September 1, 2025.

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