

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S3/4/03 S3/6/03 S3/13/03

A Bill

SENATE BILL 434

5 By: Senators Critcher, *Altes, Baker, Holt, Horn, Steele, Womack*
6 By: Representatives R. Smith, *Creekmore, Elliott, Goss, Hutchinson, Jackson, Lamoureux, Mack,*
7 *Oglesby, Parks, Pritchard, Stovall, J. Taylor, Harris, Matayo, Rosenbaum*
8
9

For An Act To Be Entitled

11 AN ACT TO REVISE THE RELIGIOUS EXEMPTION TO THE
12 SCHOOL IMMUNIZATION REQUIREMENTS; AND FOR OTHER
13 PURPOSES.
14

Subtitle

15 AN ACT TO REVISE THE RELIGIOUS EXEMPTION
16 TO THE SCHOOL IMMUNIZATION REQUIREMENTS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 6-18-702(d), requiring immunization of
23 children, is amended to read as follows:

24 (d)(1)(A) The State Board of Health shall promulgate rules and
25 regulations to ensure that all exemptions provided by this section shall have
26 a minimal effect on the health and safety of all children attending daycare
27 or kindergarten through grade twelve (K-12).

28 (B) The rules shall provide for, but are not limited to,
29 the tracking of those children with exemptions so that appropriate steps may
30 be taken in the event of an outbreak or epidemic.

31 (2) The Department of Health, and no other department or entity,
32 may grant exemptions provided for by this section.

33 (3) If, in the discretion of the health authority having
34 jurisdiction or of any physician licensed to practice by the Arkansas State
35 Medical Board, any person to whom this section applies shall be deemed to
36 have a physical disability which may contraindicate vaccination, a



1 certificate to that effect issued by the health officer may be accepted in
2 lieu of a certificate of vaccination, provided that the exemption shall not
3 apply when the disability shall have been removed.

4 ~~(2)~~(4)(A) The provisions of this section shall not apply if the
5 parents or legal guardian of that child object thereto on the grounds that
6 immunization conflicts with the religious ~~tenets and practices of a~~
7 ~~recognized church or religious denomination of which~~ or philosophical beliefs
8 of the parent or guardian is an adherent or member.

9 (B) The parents or legal guardian of the child shall
10 participate in an annual application process developed in the rules and
11 regulations of the Department of Health for medical, religious, and
12 philosophical exemptions.

13 (C) The rules and regulations developed by the Department
14 of Health for medical, religious, and philosophical exemptions shall include
15 an annual application process by which parents participate in an education
16 process to be coordinated by the Department of Health, including, but not
17 limited to:

18 (i) Notarized statement requesting a religious,
19 philosophical, or medical exemption from the Department of Health by the
20 parents or legal guardian of the child regarding the objection;

21 (ii) Completion of an educational process developed
22 by the Department of Health;

23 (iii) An informed consent from the parents or
24 guardian that shall include a signed statement of refusal to vaccinate based
25 on the Department of Health refusal to vaccinate form; and

26 (iv) A signed statement of understanding that:

27 (a) At the discretion of the Department of
28 Health, the unimmunized child or individual may be removed from daycare or
29 school during an outbreak if the child or individual is not fully vaccinated;
30 and

31 (b) The child or individual shall not return
32 to school until the outbreak has been resolved and the Department of Health
33 approves the return to school.

34 (D) No exemptions may be granted under this subdivision
35 (d)(4), until the application process has been implemented by the Department
36 of Health and completed by the applicant.

1 ~~(3)~~(5) Furthermore, the provisions of this section requiring
2 pertussis vaccination shall not apply to any child with a sibling, either
3 whole blood or half blood, who has had a serious adverse reaction to the
4 pertussis antigen, which reaction resulted in a total permanent disability.
5

6 SECTION 2. Arkansas Code § 6-60-504(b), concerning religious
7 objections to immunization of college and university students, is amended to
8 read as follows:

9 **(b)(1)** The provisions of this subchapter shall not apply if the
10 individual furnishes to the college or university ~~written proof from a church~~
11 ~~or denomination official that the immunization conflicts with the religious~~
12 ~~tenets and practices of the recognized church or religious denomination of~~
13 ~~which the individual is an adherent or member~~ a signed, notarized statement
14 that the immunization conflicts with the religious or philosophical beliefs
15 of the individual.

16 **(2)(A)** The individual shall participate in an annual application
17 process developed in the rules and regulations of the Department of Health
18 for medical, religious, and philosophical exemptions.

19 **(B)** The rules and regulations developed by the Department
20 of Health for medical, religious, and philosophical exemptions shall include
21 an annual application process by which parents participate in an education
22 process to be coordinated by the Department of Health, including, but not
23 limited to:

24 **(i)** Notarized statement requesting a religious,
25 philosophical, or medical exemption from the Department of Health by the
26 parents or legal guardian of the child regarding the objection;

27 **(ii)** Completion of an educational process developed
28 by the Department of Health;

29 **(iii)** An informed consent from the parents or
30 guardian that shall include a signed statement of refusal to vaccinate based
31 on the Department of Health refusal to vaccinate form; and

32 **(iv)** A signed statement of understanding that:

33 **(a)** At the discretion of the Department of
34 Health, the unimmunized child or individual may be removed from daycare or
35 school during an outbreak if the child or individual is not fully vaccinated;
36 and

1 (b) The child or individual shall not return
2 to school until the outbreak has been resolved and the Department of Health
3 approves the return to school.

4 (3) No exemptions may be granted under this subsection (b),
5 until the application process has been implemented by the Department of
6 Health and completed by the applicant.

7
8 SECTION 3. Arkansas Code § 20-78-206(a)(2)(B), concerning exemptions
9 from immunization in child care facilities, is amended to read as follows:

10 (B)(i) The provisions of subdivision (a)(2)(A) of this
11 section pertaining to immunizations shall not apply if the parents or legal
12 guardian of that child object thereto on the grounds that such immunization
13 conflicts with the religious ~~tenets and practices of a recognized church or~~
14 ~~religious denomination of which~~ or philosophical beliefs of the parent or
15 guardian ~~is an adherent or member.~~

16 (ii) The parents or legal guardian of the child
17 shall participate in an annual application process developed in the rules and
18 regulations of the Department of Health for medical, religious and
19 philosophical exemptions.

20 (a) The rules and regulations developed by the
21 Department of Health for medical, religious and philosophical exemptions
22 shall include an annual application process by which parents participate in
23 an education process to be coordinated by the Department of Health,
24 including, but not limited to:

25 (1) Notarized statement requesting a
26 religious, philosophical, or medical exemption from the Department of Health
27 by the parents or legal guardian of the child regarding the objection;

28 (2) Completion of an educational process
29 developed by the Department of Health;

30 (3) An informed consent from the parents
31 or guardian that shall include a signed statement of refusal to vaccinate
32 based on the Department of Health refusal to vaccinate form; and

33 (4) A signed statement of understanding
34 that:

35 (A) At the discretion of the
36 Department of Health, the unimmunized child or individual may be removed from

1 daycare or school during an outbreak if the child or individual is not fully
2 vaccinated; and

3 (B) The child or individual shall
4 not return to school until the outbreak has been resolved and the Department
5 of Health approves the return to school.

6 (b) No exemptions may be granted under this
7 subdivision (d)(4), until the application process has been implemented by the
8 Department of Health and completed by the applicant.

9 ~~(ii)~~(iii) Furthermore, the provisions of subdivision
10 (a)(2)(A) of this section requiring pertussis vaccination shall not apply to
11 any child with a sibling, either whole blood or half blood, who has had a
12 serious adverse reaction to the pertussis antigen, which reaction resulted in
13 a total permanent disability.

14
15 SECTION 4. Arkansas Code § 20-7-306, concerning reports and assistance
16 by the Department of Health to the House and Senate Interim Committees on
17 Public Health, Welfare, and Labor, is amended to add an additional subsection
18 to read as follows:

19 (c)(1)(A) With regard to §§ 6-18-702(d), 6-60-504(b), and 20-78-
20 206(a)(2)(B), the Department of Health shall report every six (6) months to
21 the House and Senate Interim Committees of Public Health, Welfare, and Labor
22 regarding:

23 (i) The geographic patterns of exemptions,
24 vaccination rates, and exemptions in those areas as well as the rest of the
25 state, and

26 (ii) Disease incidence of vaccine preventable
27 disease collected by the Department of Health.

28 (B) The collections of exemption information shall begin
29 January 4, 2004.

30 (C) Reports shall begin at the first interim meeting of
31 the House and Senate Interim Committees of Public Health, Welfare, and Labor.

32 (2) The Department of Health shall facilitate a study to include
33 religious, philosophical, and medical exemption patterns and the incidence of
34 disease in the state.

35 (A) The study shall include:

36 (i) An evaluation of the state's immunization

1 policies;

2 (ii) The incidence of disease in Arkansas and other
3 states; and

4 (iii) A risk evaluation of specific populations in
5 Arkansas.

6 (B) The study shall begin July 3, 2003, and shall be
7 completed by December 31, 2004.

8 (C) The study shall be a collaborative effort coordinated
9 by the Department of Health.

10 (3) The Department of Health shall issue a final assessment on
11 the impact of this subsection (c) to the Senate and House Public Health,
12 Welfare, and Labor Committees during the 2005 regular session of the General
13 Assembly.

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15 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
16 General Assembly of the State of Arkansas that the federal District Courts
17 for the Eastern and Western Districts of Arkansas have held the state's
18 school immunization statute to be unconstitutional, that the courts have
19 stayed the effect of the finding, that if the stay is lifted before this act
20 becomes effective, some students will be excluded from school attendance.
21 Therefore, an emergency is declared to exist and this act being immediately
22 necessary for the preservation of the public peace, health, and safety shall
23 become effective on:

24 (1) The date of its approval by the Governor;

25 (2) If the bill is neither approved nor vetoed by the Governor,
26 the expiration of the period of time during which the Governor may veto the
27 bill; or

28 (3) If the bill is vetoed by the Governor and the veto is
29 overridden, the date the last house overrides the veto.

30 /s/ Critcher

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