

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 *As Engrossed: S3/4/03 S3/6/03 S3/13/03 H3/18/03*

2 84th General Assembly

# A Bill

3 Regular Session, 2003

SENATE BILL 434

4

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*

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## 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

15

### Subtitle

16

AN ACT TO REVISE THE RELIGIOUS EXEMPTION  
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 shall 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 complete an annual application process developed in the rules and regulations  
11 of the Department of Health for medical, religious, and philosophical  
12 exemptions.

13 (C) The rules and regulations developed by the Department  
14 of Health for medical, religious, and philosophical exemptions shall include,  
15 but not be limited to:

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

19 (ii) Completion of an educational component  
20 developed by the Department of Health that includes information on the risks  
21 and benefits of vaccination;

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

25 (iv) A signed statement of understanding that:

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

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

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

36 ~~(3)~~(5) Furthermore, the provisions of this section requiring

1 pertussis vaccination shall not apply to any child with a sibling, either  
2 whole blood or half blood, who has had a serious adverse reaction to the  
3 pertussis antigen, which reaction resulted in a total permanent disability.  
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5 SECTION 2. Arkansas Code § 6-60-504(b), concerning religious  
6 objections to immunization of college and university students, is amended to  
7 read as follows:

8 (b)(1) The provisions of this subchapter shall not apply if the  
9 individual furnishes to the college or university written proof from a church  
10 or denomination official that the immunization conflicts with the religious  
11 tenets and practices of the recognized church or religious denomination of a  
12 letter of exemption from the Department of Health.

13 (2)(A) The individual shall complete an annual application  
14 process developed in the rules and regulations of the Department of Health  
15 for medical, religious, and philosophical exemptions.

16 (B) The rules and regulations developed by the Department  
17 of Health for medical, religious, and philosophical exemptions shall include,  
18 but not be limited to:

19 (i) Notarized statement requesting a religious,  
20 philosophical, or medical exemption from the Department of Health by the  
21 individual regarding the objection

22 (ii) Completion of an educational component  
23 developed by the Department of Health that includes information on the risks  
24 and benefits of vaccination;

25 (iii) An informed consent from the individual that  
26 shall include a signed statement of refusal to vaccinate based on the  
27 Department of Health refusal to vaccinate form; and

28 (iv) A signed statement of understanding that:

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

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

36 (3) No exemptions may be granted under this subsection (b),

1 until the application process has been implemented by the Department of  
2 Health and completed by the applicant.

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

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

12 (ii) The parents or legal guardian of the child  
13 shall complete an annual application process developed in the rules and  
14 regulations of the Department of Health for medical, religious and  
15 philosophical exemptions.

16 (a) The rules and regulations developed by the  
17 Department of Health for medical, religious and philosophical exemptions  
18 shall include but not be limited to:

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

22 (ii) Completion of an educational  
23 component developed by the Department of Health that includes information on  
24 the risks and benefits of vaccination;

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

28 (4) A signed statement of understanding  
29 that:

30 (A) At the discretion of the  
31 Department of Health, the unimmunized child or individual may be removed from  
32 daycare or school during an outbreak if the child or individual is not fully  
33 vaccinated; and

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

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

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

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

14 (c)(1)(A) With regard to §§ 6-18-702(d), 6-60-504(b), and 20-78-  
15 206(a)(2)(B), the Department of Health shall report every six (6) months to  
16 the House and Senate Interim Committees of Public Health, Welfare, and Labor  
17 regarding:

18 (i) The geographic patterns of exemptions,  
19 vaccination rates, and exemptions in those areas as well as the rest of the  
20 state, and

21 (ii) Disease incidence of vaccine preventable  
22 disease collected by the Department of Health.

23 (B) The collections of exemption information shall begin  
24 January 4, 2004.

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

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

30 (A) The study shall include:

31 (i) An evaluation of the state's immunization  
32 policies;

33 (ii) The incidence of disease in Arkansas and other  
34 states; and

35 (iii) A risk evaluation of specific populations in  
36 Arkansas.

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

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

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

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

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

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

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

25   /s/ Critcher, et al  
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