

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 740

5 By: Senator A. Clark
6

For An Act To Be Entitled

8 AN ACT TO PROHIBIT PRIVATE EMPLOYERS AND PUBLIC
9 ACCOMMODATIONS FROM DISCRIMINATING BASED ON A
10 PERSON'S CORONAVIRUS 2019 (COVID-19) VACCINATION
11 STATUS OR POSSESSION OF A VACCINE PASSPORT; TO
12 PROHIBIT PRIVATE EMPLOYERS AND PUBLIC ACCOMMODATIONS
13 FROM MANDATING VACCINES OR IMMUNIZATIONS FOR
14 CORONAVIRUS 2019 (COVID-19); TO DECLARE AN EMERGENCY;
15 AND FOR OTHER PURPOSES.
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Subtitle

18 TO PROHIBIT PRIVATE EMPLOYERS AND PUBLIC
19 ACCOMMODATIONS FROM DISCRIMINATING BASED
20 ON A PERSON'S VACCINATION STATUS OR
21 POSSESSION OF A VACCINE PASSPORT AND FROM
22 MANDATING VACCINES FOR COVID-19; AND TO
23 DECLARE AN EMERGENCY.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 20-7-143 is amended to read as follows:
30 20-7-143. Prohibition on requirement for vaccine or immunization for
31 coronavirus 2019 (COVID-19) – Definition.

32 (a) As used in this section, "coerce" means:

33 (1) Using physical violence, threats, intimidation, or
34 retaliation with the purpose of causing a reasonable individual of ordinary
35 susceptibilities to acquiesce when the individual otherwise would not;

36 (2)(A) Making conditional a private or public benefit, including



1 without limitation employment, promotion, or another employment benefit, with
2 the purpose of causing a reasonable individual of ordinary susceptibilities
3 to acquiesce when the individual otherwise would not.

4 (B) However, other positive incentives that are above or
5 beyond any expected compensation or benefit of employment shall not be
6 included under the term “coerce”; or

7 (3) Using any other means with the purpose of causing a
8 reasonable individual of ordinary susceptibilities to acquiesce when the
9 individual otherwise would not.

10 (b)(1) The state, a state agency or entity, a political subdivision of
11 the state, ~~or a state or local official,~~ a private employer, or a public
12 accommodation shall not mandate or require an individual to receive a vaccine
13 or immunization for coronavirus 2019 (COVID-19) if the vaccine or
14 immunization has been tested for less than five (5) years or on the market
15 for less than three (3) years.

16 (2) A state-owned or state-controlled medical facility may offer
17 positive incentives to an individual to receive a vaccine or immunization for
18 coronavirus 2019 (COVID-19).

19 (3) If a state-owned or state-controlled medical facility
20 desires to mandate or require an individual to receive a vaccine or
21 immunization for coronavirus 2019 (COVID-19), then the state-owned or state-
22 controlled medical facility shall receive approval from the Legislative
23 Council to mandate or require the individual to receive a vaccine or
24 immunization for coronavirus 2019 (COVID-19).

25 (c) Receiving a vaccine or immunization for coronavirus 2019 (COVID-
26 19) shall not be a condition of education, employment, entry, or services
27 from the state or a state agency or entity or for obtaining a licensure,
28 certificate, or permit from a state agency or entity.

29 (d)(1) The Department of Health shall maintain information and data
30 about the safety and efficacy of any vaccine or immunization for coronavirus
31 2019 (COVID-19) approved by the United States Food and Drug Administration,
32 including without limitation information and data on any risk of harm
33 associated with the administration of the vaccine or immunization, on the
34 department’s website.

35 (2) The information and data described in subdivision (d)(1) of
36 this section shall be presented in a manner that is understandable and

1 accessible to all individuals.

2 (e) The state, a state agency or entity, a political subdivision of
3 the state, ~~or a state or local official, a private employer, or a public~~
4 accommodation shall not discriminate against or coerce in any way an
5 individual for refusing to receive a vaccine or immunization for coronavirus
6 2019 (COVID-19), including without limitation:

7 (1) Coercing an employee into consenting to receive a vaccine or
8 immunization for coronavirus 2019 (COVID-19);

9 (2) Withholding the opportunity for career advancement from an
10 employee who does not consent to receiving a vaccine or immunization for
11 coronavirus 2019 (COVID-19); ~~or~~

12 (3) Withholding a salary, a wage increase, insurance, or
13 insurance discounts from an employee who does not consent to receiving a
14 vaccine or immunization for coronavirus 2019 (COVID-19); or

15 (4) Excluding, limiting, segregating, refusing to serve, or
16 otherwise discriminating against a person based on his or her vaccination
17 status.

18 (f)(1) If the state, a state agency or entity, a political subdivision
19 of the state, ~~or a state or local official, a private employer, or a public~~
20 accommodation recommends that an individual in this state receive a vaccine
21 or immunization for coronavirus 2019 (COVID-19), the state, state agency or
22 entity, political subdivision of the state, ~~or state or local official,~~
23 private employer, or public accommodation shall provide notice that the
24 recommendation is not mandatory.

25 (2) Recommending a vaccination or immunization for coronavirus
26 2019 (COVID-19) is not unlawful discrimination under this section.

27 (3) A healthcare facility does not unlawfully discriminate under
28 this section if the healthcare facility:

29 (A)(i) Asks an employee to volunteer the employee's
30 vaccination or immunization status for the purpose of determining whether the
31 healthcare facility should implement reasonable accommodation measures to
32 protect the safety and health of employees, patients, visitors, and other
33 persons from communicable diseases.

34 (ii) A healthcare facility may consider an employee
35 to be nonvaccinated or nonimmune if the employee declines to provide the
36 employee's vaccination or immunization status; and

1 (B) Implements reasonable accommodation measures for
 2 employees, patients, visitors, and other persons who are not vaccinated or
 3 not immune to protect the safety and health of employees, patients, visitors,
 4 and other persons from communicable diseases.

5 (g) This section shall expire two (2) years from the date that the
 6 United States Food and Drug Administration approves the immunization or
 7 vaccine for coronavirus 2019 (COVID-19).

8 (h) A healthcare facility is exempt from complying with this section
 9 during any period of time that compliance with this section would result in a
 10 violation of regulations or guidance issued by the Centers for Medicare and
 11 Medicaid Services or the Centers for Disease Control and Prevention.

12 (i) The state, a state agency or entity, a political subdivision of
 13 the state, a state or local official, a private employer, a public
 14 accommodation, or a healthcare facility may apply for funds under the
 15 American Rescue Plan Act of 2021, Pub. L. No. 117-2, related to the
 16 implementation of this section if such funds are available for that purpose.
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18 SECTION 2. Arkansas Code § 20-7-145 is amended to read as follows:
 19 20-7-145. Prohibition on vaccine passports – Definition.

20 (a) As used in this section, “vaccine passport” means documentation
 21 that an individual has been vaccinated against coronavirus 2019 (COVID-19).

22 (b) The state, a state agency or entity, a political subdivision of
 23 the state, ~~or~~ a state or local official, a private employer, or a public
 24 accommodation shall not:

25 (1) Require ~~require~~ an individual to use a vaccine passport in
 26 this state for any purpose; or

27 (2) Discriminate against an individual based on his or her
 28 vaccine passport.

29 (c) The use of a vaccine passport shall not be a condition for entry,
 30 travel, education, or services.

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 32 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
 33 General Assembly of the State of Arkansas that the potential exists for
 34 certain entities in the state to require a vaccination or immunization for
 35 coronavirus 2019 (COVID-19); that this act addresses circumstances in which a
 36 private employer or a public accommodation shall not mandate or require an

1 individual to receive a vaccine or immunization for coronavirus 2019 (COVID-
2 19); that the decision of whether a person receives a vaccination or
3 immunization for coronavirus 2019 (COVID-19) impacts the public peace,
4 health, and safety by impacting the choice of an individual to receive a
5 vaccination or immunization; and this act should become immediately effective
6 to apply to persons who might currently be required to receive a vaccination
7 or immunization for coronavirus 2019 (COVID-19). Therefore, an emergency is
8 declared to exist, and this act being immediately necessary for the
9 preservation of the public peace, health, and safety shall become effective
10 on:

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

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

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

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