

1 State of Arkansas  
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4

As Engrossed: H3/15/21

# A Bill

HOUSE BILL 1547

5 By: Representatives Lundstrum, Bentley, Barker, Beaty Jr., Beck, M. Berry, Breaux, Brooks, Brown,  
6 Bryant, Carr, Cloud, Coleman, C. Cooper, Crawford, Deffenbaugh, Dotson, Evans, Furman, Gonzales,  
7 Haak, Ladyman, Lowery, Lynch, J. Mayberry, McClure, McCollum, McNair, Milligan, Penzo, Rye, B.  
8 Smith, Tollett, Underwood, Vaught, Warren, Watson, Wing, Wooten  
9 By: Senators B. Davis, B. Ballinger, Bledsoe, A. Clark, T. Garner, K. Hammer, Irvin

## For An Act To Be Entitled

12 AN ACT TO PROHIBIT MANDATORY CORONAVIRUS 2019 (COVID-  
13 19) IMMUNIZATIONS OR VACCINATIONS FOR STUDENTS AND  
14 EMPLOYEES; TO PROHIBIT A REQUIREMENT FOR A  
15 VACCINATION OR IMMUNIZATION FOR CORONAVIRUS 2019  
16 (COVID-19) EXCEPT IN CERTAIN CONDITIONS; TO DECLARE  
17 AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

21 TO PROHIBIT MANDATORY COVID-19  
22 IMMUNIZATIONS OR VACCINATIONS FOR  
23 STUDENTS AND EMPLOYEES AND A REQUIREMENT  
24 FOR A VACCINATION OR IMMUNIZATION FOR  
25 COVID-19 EXCEPT IN CERTAIN CONDITIONS;  
26 AND TO DECLARE AN EMERGENCY.

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

31 SECTION 1. Arkansas Code § 6-18-702(a), concerning immunizations for  
32 students in elementary and secondary schools, is amended to read as follows:

33 (a)(1) Except as otherwise provided by law, ~~ne~~ an infant or child  
34 shall not be admitted to a public or private school or childcare facility of  
35 this state ~~who~~ if he or she has not been age-appropriately immunized from  
36 poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles,



1 rubella, and other diseases as designated by the State Board of Health, as  
2 evidenced by a certificate of a licensed physician or a public health  
3 department acknowledging the immunization.

4 (2)(A) However, a public or private school or childcare facility  
5 of this state shall not require or mandate an infant or child to receive an  
6 immunization or vaccine for the coronavirus 2019 (COVID-19) in order to be  
7 admitted to a public or private school or childcare facility of this state.

8 (B) Subdivision (a)(2)(A) of this section shall expire on  
9 either:

10 (i) Four (4) years from the effective date of this  
11 act if the immunization or vaccination for coronavirus 2019 (COVID-19) was  
12 been approved under emergency use authorization; or

13 (ii) Two (2) years from the date that the United  
14 States Food and Drug Administration approves the immunization or vaccination  
15 for coronavirus 2019 (COVID-19) outside of an emergency use authorization.

16  
17 SECTION 2. Arkansas Code Title 11, Chapter 5, is amended to add an  
18 additional subchapter to read as follows:

19  
20 Subchapter 6 – Prohibition on Mandatory Vaccination for Coronavirus 2019  
21 (COVID-19)

22  
23 11-5-601. Definitions.

24 As used in this subchapter:

25 (1) “Coerce” means:

26 (A) The use of physical violence, threats, intimidation,  
27 or retaliation with the purpose of causing a reasonable individual of  
28 ordinary susceptibilities to acquiesce when the individual otherwise would  
29 not;

30 (B) The act of making conditional a private or public  
31 benefit, including without limitation employment, promotion, or another  
32 employment benefit, with the purpose of causing a reasonable individual of  
33 ordinary susceptibilities to acquiesce when the individual otherwise would  
34 not; or

35 (C) The use of any other means with the purpose of causing  
36 a reasonable individual of ordinary susceptibilities to acquiesce when the

1 individual otherwise would not;

2 (2) "Employee" means a person who:

3 (A) Is employed by an employer; or

4 (B) Contracts to perform certain work away from an  
5 employer's premises, uses his or her own methods to accomplish the work, and  
6 is subject to the control of the employer only as to the results of performed  
7 work; and

8 (3) "Employer" means:

9 (A) An individual, partnership, association, corporation,  
10 commercial entity, this state, or a political subdivision of this state; or

11 (B) A person or a group that acts directly or indirectly  
12 in the interest of or in relation to an individual, partnership, association,  
13 corporation, commercial entity, this state, or a political subdivision of  
14 this state.

15  
16 11-5-602. Prohibition on mandatory vaccination for coronavirus 2019  
17 (COVID-19) – Immunity.

18 (a) An employer shall not require or mandate an employee to receive an  
19 immunization or vaccination for coronavirus 2019 (COVID-19) as a condition of  
20 employment.

21 (b) An employer shall not:

22 (1) Coerce an employee into consenting to receive an  
23 immunization or vaccination for coronavirus 2019 (COVID-19);

24 (2) Create a hostile work environment for an employee who does  
25 not consent to receive an immunization or vaccination for coronavirus 2019  
26 (COVID-19);

27 (3) Withhold the opportunity for career advancement from an  
28 employee who does not consent to receiving an immunization or vaccination for  
29 coronavirus 2019 (COVID-19);

30 (4) Withhold a salary, wage increase, insurance, or insurance  
31 discounts from an employee who does not consent to receiving an immunization  
32 or vaccination for coronavirus 2019 (COVID-19); or

33 (5)(A) Dismiss an employee without offering a reasonable  
34 accommodation, if possible, based on the decision of the employee to withhold  
35 consent to receiving an immunization or vaccination for coronavirus 2019  
36 (COVID-19).

1 (c)(1) An employer is immune from civil liability for damages or  
2 injuries resulting from exposure of an employee to coronavirus 2019 (COVID-  
3 19) on the premises owned or operated by the employer.

4 (2) Immunity under this section does not apply to willful,  
5 reckless, or intentional misconduct resulting in injury or damages or extend  
6 to workers' compensation benefits paid by or on behalf of an employer to an  
7 employee under the Workers' Compensation Law, § 11-9-101 et seq., or a  
8 comparable workers' compensation law of another jurisdiction.

9  
10 11-5-603. Sunset.

11 *This subchapter shall expire on either:*

12 (1) Four (4) years from the effective date of this act if the  
13 immunization or vaccination for coronavirus 2019 (COVID-19) was been approved  
14 under emergency use authorization; or

15 (2) Two (2) years from the date that the United States Food and  
16 Drug Administration approves the immunization or vaccination for coronavirus  
17 2019 (COVID-19) outside of an emergency use authorization.

18  
19 SECTION 3. Arkansas Code Title 20, Chapter 7, Subchapter 1, is amended  
20 to add an additional section to read as follows:

21 20-7-141. Prohibition on requirement for vaccination or immunization  
22 for coronavirus 2019 (COVID-19) – Definitions.

23 (a) As used in this section:

24 (1) "Early learning center" means a child daycare center, Early  
25 Head Start center, Head Start center, or stand-alone prekindergarten not  
26 attached to a school;

27 (2) "Permanent disability" means a medically determined  
28 condition, whether due to injury or disease, that is permanent and  
29 substantially affects one (1) or more major life activities of an individual;  
30 and

31 (3) "School" means:

32 (A) An elementary school;

33 (B) A secondary school;

34 (C) A kindergarten;

35 (D) A college;

36 (E) A university;

1 (F) A proprietary school; or

2 (G) A vocational school.

3 (b) If a vaccine or immunization for coronavirus 2019 (COVID-19)  
4 approved by the United States Food and Drug Administration is not available,  
5 an individual is not required to receive a vaccination or immunization for  
6 coronavirus 2019 (COVID-19):

7 (1) For enrollment in a school or early learning center;

8 (2) As a condition of employment; or

9 (3) As a condition for obtaining a licensure, certificate, or  
10 permit.

11 (c) If a vaccine or immunization for coronavirus 2019 (COVID-19)  
12 approved by the United States Food and Drug Administration is available, an  
13 individual is not required to receive a vaccination or immunization for  
14 coronavirus 2019 (COVID-19) for the circumstances described in subdivisions  
15 (b)(1)-(3) of this section unless:

16 (1) The vaccination or immunization is evaluated for any  
17 potential risk of harm to cause cancer, impair fertility, or mutate genes;

18 (2) The safety of the vaccination or immunization is evaluated  
19 for at least one (1) year after the vaccination or immunization is  
20 administered through a clinical trial against a control group in which the  
21 members receive either the vaccination or immunization or an inert placebo  
22 that is approved by the United States Food and Drug Administration;

23 (3) Studies are conducted to identify any potential injury or  
24 disease that may be caused by the vaccination or immunization or any injury  
25 or disease that the vaccination or immunization may cause when administered  
26 with other required or recommended vaccinations or immunizations;

27 (4) The risk of permanent disability or death from receiving the  
28 vaccination or immunization is proven to be less than the infection rate  
29 associated with coronavirus 2019 (COVID-19); and

30 (5) The manufacturer of the vaccination or immunization is  
31 liable for any claim of injury or death caused by the vaccination or  
32 immunization.

33 (d) An individual is not required to receive a vaccination or  
34 immunization for coronavirus 2019 (COVID-19) if he or she submits a written  
35 statement from a physician to the Department of Health or to his or her  
36 employer, stating that the procedure:

1 (1) Is contradicted for a medical reason;

2 (2) Is against a religious or philosophical reason; or

3 (3) Is against the objection of a parent or guardian if the  
4 individual is a minor.

5 (e)(1) The department shall maintain information and data about the  
6 safety and efficacy of any vaccination or immunization for coronavirus 2019  
7 (COVID-19) approved by the United States Food and Drug Administration,  
8 including without limitation information and data on any risk of harm  
9 associated with the administration of the vaccination or immunization, on the  
10 department's website.

11 (2) The information and data described in subdivision (e)(1) of  
12 this section shall be presented in a manner that is understandable and  
13 accessible to all individuals.

14 (f) An individual shall not be discriminated against or coerced in any  
15 way for refusing to receive a vaccination or immunization for coronavirus  
16 2019 (COVID-19).

17  
18 SECTION 4. Arkansas Code § 20-78-206(a)(2)(A), concerning the rules  
19 promulgated by the Division of Child Care and Early Childhood Education  
20 within the Childcare Facility Licensing Act, is amended to read as follows:

21 (2)(A)(i) However, ~~no~~ a childcare facility shall not continue to  
22 admit a child who has not been age-appropriately immunized from  
23 poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles,  
24 rubella, and any other diseases as designated by the State Board of Health  
25 within fifteen (15) program days after the child's original admission.

26 (ii)(a) The immunization shall be evidenced by a  
27 certificate of a licensed physician or a public health department  
28 acknowledging the immunization.

29 (b) The division shall consult with the  
30 Secretary of the Department of Education or his or her designated  
31 representative in regard to rules relating to education.

32 (iii)(a) However, a childcare facility shall not  
33 require or mandate an infant or child to receive an immunization or vaccine  
34 for the coronavirus 2019 (COVID-19) in order to be admitted to a childcare  
35 facility.

36 (b) Subdivision (a)(2)(A)(iii)(a) of this

1 section shall expire on either:

2 (1) Four (4) years from the effective  
3 date of this act if the immunization or vaccination for coronavirus 2019  
4 (COVID-19) was been approved under emergency use authorization; or

5 (2) Two (2) years from the date that the  
6 United States Food and Drug Administration approves the immunization or  
7 vaccination for coronavirus 2019 (COVID-19) outside of an emergency use  
8 authorization.

9  
10 SECTION 5. DO NOT CODIFY. ARKANSAS CODE REVISION COMMISSION  
11 AUTHORIZATION.

12 The Arkansas Code Revision Commission is directed to remove this act  
13 from the Arkansas Code upon the expiration of the terms of this act.

14  
15 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the  
16 General Assembly of the State of Arkansas that in December 2020, several  
17 vaccines or immunizations for coronavirus 2019 (COVID-19) were approved for  
18 distribution to the citizens of the United States; that the State of Arkansas  
19 has received limited quantities of vaccines or immunizations for coronavirus  
20 2019 (COVID-19) and plans to make vaccinations or immunizations for  
21 coronavirus 2019 (COVID-19) available to citizens of this state through a  
22 phased process; that citizens of this state have expressed concerns about  
23 being forced to receive a vaccination or immunization for coronavirus 2019  
24 (COVID-19) without consideration of their religious, philosophical, or  
25 medical reasons or information about the safety of a vaccine or immunization  
26 for coronavirus 2019 (COVID-19); and that this act is immediately necessary  
27 to protect the safety and health of the citizens of this state who have  
28 religious, philosophical, or medical reasons for not receiving a vaccination  
29 or immunization for coronavirus 2019 (COVID-19) or who have concerns about  
30 the safety of a vaccine or immunization for coronavirus 2019 (COVID-19).  
31 Therefore, an emergency is declared to exist, and this act being immediately  
32 necessary for the preservation of the public peace, health, and safety shall  
33 become effective on:

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

35 (2) If the bill is neither approved nor vetoed by the Governor,  
36 the expiration of the period of time during which the Governor may veto the

1 bill; or

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

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5 */s/Lundstrum*

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