

1 State of Arkansas As Engrossed: H3/15/21 H3/17/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1547

4

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

10

11

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.

18

19

20

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.

27

28

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

30

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

34

35

36

(a) (1) Except as otherwise provided by law, ~~ne~~ an infant or child
shall not be admitted to a public or private school or childcare facility of
this state ~~who~~ if he or she has not been age-appropriately immunized from
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 two
9 (2) years from the date that the United States Food and Drug Administration
10 approved the immunization or vaccination for coronavirus 2019 (COVID-19).

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

13
14 Subchapter 6 – Prohibition on Mandatory Vaccination for Coronavirus 2019
15 (COVID-19)

16
17 11-5-601. Definitions.

18 As used in this subchapter:

19 (1) “Coerce” means:

20 (A) The use of physical violence, threats, intimidation,
21 or retaliation with the purpose of causing a reasonable individual of
22 ordinary susceptibilities to acquiesce when the individual otherwise would
23 not;

24 (B)(i) The act of making conditional a private or public
25 benefit, including without limitation employment, promotion, or another
26 employment benefit, with the purpose of causing a reasonable individual of
27 ordinary susceptibilities to acquiesce when the individual otherwise would
28 not.

29 (ii) However, other positive incentives that are above or
30 beyond any expected compensation or benefit of employment shall not be
31 included under the term “coerce”; or

32
33 (C) The use of any other means with the purpose of causing
34 a reasonable individual of ordinary susceptibilities to acquiesce when the
35 individual otherwise would not;

36 (2) “Employee” means a person who:

1 (A) Is employed by an employer; or

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

6 (3) "Employer" means:

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

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

13
14 11-5-602. Prohibition on mandatory vaccination for coronavirus 2019
15 (COVID-19) – Immunity.

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

19 (b) An employer shall not:

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

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

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

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

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

35 (c)(1) An employer is immune from civil liability for damages or
36 injuries resulting from exposure of an employee to coronavirus 2019 (COVID-

1 19) on the premises owned or operated by the employer.

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

7
8 11-5-603. Sunset.

9 *This subchapter shall expire two (2) years from the date that the*
10 *United States Food and Drug Administration approved the immunization or*
11 *vaccination for coronavirus 2019 (COVID-19).*

12
13 SECTION 3. Arkansas Code Title 20, Chapter 7, Subchapter 1, is amended
14 to add an additional section to read as follows:

15 20-7-141. Prohibition on requirement for vaccination or immunization
16 for coronavirus 2019 (COVID-19) – Definitions.

17 (a) As used in this section:

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

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

25 (3) "School" means:

26 (A) An elementary school;

27 (B) A secondary school;

28 (C) A kindergarten;

29 (D) A college;

30 (E) A university;

31 (F) A proprietary school; or

32 (G) A vocational school.

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

1 (1) For enrollment in a school or early learning center;
2 (2) As a condition of employment; or
3 (3) As a condition for obtaining a licensure, certificate, or
4 permit.

5 (c) If a vaccine or immunization for coronavirus 2019 (COVID-19)
6 approved by the United States Food and Drug Administration is available, an
7 individual is not required to receive a vaccination or immunization for
8 coronavirus 2019 (COVID-19) for the circumstances described in subdivisions
9 (b)(1)-(3) of this section if the vaccination or immunization:

10 (1) Has not been approved by the United States Food and Drug
11 Administration for at least two (2) years;

12 (2) Is contradicted for a medical reason;

13 (3) Is against a religious or philosophical reason; or

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

16 (d)(1) The department shall maintain information and data about the
17 safety and efficacy of any vaccination or immunization for coronavirus 2019
18 (COVID-19) approved by the United States Food and Drug Administration,
19 including without limitation information and data on any risk of harm
20 associated with the administration of the vaccination or immunization, on the
21 department's website.

22 (2) The information and data described in subdivision (d)(1) of
23 this section shall be presented in a manner that is understandable and
24 accessible to all individuals.

25 (e) An individual shall not be discriminated against or coerced in any
26 way for refusing to receive a vaccination or immunization for coronavirus
27 2019 (COVID-19).

28
29 SECTION 4. Arkansas Code § 20-78-206(a)(2)(A), concerning the rules
30 promulgated by the Division of Child Care and Early Childhood Education
31 within the Childcare Facility Licensing Act, is amended to read as follows:

32 (2)(A)(i) However, ~~ne~~ a childcare facility shall not continue to
33 admit a child who has not been age-appropriately immunized from
34 poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles,
35 rubella, and any other diseases as designated by the State Board of Health
36 within fifteen (15) program days after the child's original admission.

1 (ii)(a) The immunization shall be evidenced by a
2 certificate of a licensed physician or a public health department
3 acknowledging the immunization.

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

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

11 (b) Subdivision (a)(2)(A)(iii)(a) of this
12 section shall expire two (2) years from the date that the United States Food
13 and Drug Administration approved the immunization or vaccination for
14 coronavirus 2019 (COVID-19).

15
16 SECTION 5. DO NOT CODIFY. ARKANSAS CODE REVISION COMMISSION
17 AUTHORIZATION.

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

20
21 SECTION 6. DO NOT CODIFY. TEMPORARY LANGUAGE. Conditional mandate
22 for vaccination.

23 (a) If a variant of coronavirus 2019 (COVID-19) occurs and mutates to
24 be a more virulent strain that impacts children within two (2) years from the
25 date that the United States Food and Drug Administration approved the
26 immunization or vaccination for coronavirus 2019 (COVID-19), then the
27 Secretary of the Department of Health and the Governor shall request a
28 meeting within two (2) weeks of discovery of the virulent strain of the:

29 (1) Senate Committee on Public Health, Welfare, and Labor; and

30 (2) House Committee on Public Health, Welfare, and Labor.

31 (b)(1) In the meeting described in subsection (a) of this section, the
32 Senate Committee on Public Health, Welfare, and Labor and the House Committee
33 on Public Health, Welfare, and Labor shall make recommendations regarding
34 vaccination of children.

35 (2) The recommendations shall be presented to the Legislative
36 Council for approval.

1 (c) The recommendations may include a limited suspension of the laws
2 under this act for students and school staff or a complete suspension of the
3 laws under this act.

4 (d) If the recommendations include a suspension of the laws under this
5 act, the standard exemptions for students may continue.

6
7 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the
8 General Assembly of the State of Arkansas that in December 2020, several
9 vaccines or immunizations for coronavirus 2019 (COVID-19) were approved for
10 distribution to the citizens of the United States; that the State of Arkansas
11 has received limited quantities of vaccines or immunizations for coronavirus
12 2019 (COVID-19) and plans to make vaccinations or immunizations for
13 coronavirus 2019 (COVID-19) available to citizens of this state through a
14 phased process; that citizens of this state have expressed concerns about
15 being forced to receive a vaccination or immunization for coronavirus 2019
16 (COVID-19) without consideration of their religious, philosophical, or
17 medical reasons or information about the safety of a vaccine or immunization
18 for coronavirus 2019 (COVID-19); and that this act is immediately necessary
19 to protect the safety and health of the citizens of this state who have
20 religious, philosophical, or medical reasons for not receiving a vaccination
21 or immunization for coronavirus 2019 (COVID-19) or who have concerns about
22 the safety of a vaccine or immunization for coronavirus 2019 (COVID-19).
23 Therefore, an emergency is declared to exist, and this act being immediately
24 necessary for the preservation of the public peace, health, and safety shall
25 become effective on:

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

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

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

32
33 /s/Lundstrum
34
35
36