

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H3/15/21 H3/17/21 H3/29/21*

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

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## For An Act To Be Entitled

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

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## Subtitle

21

TO GOVERN MANDATORY COVID-19

22

IMMUNIZATIONS OR VACCINATIONS FOR

23

STUDENTS AND EMPLOYEES AND REQUIREMENTS

24

FOR A VACCINATION OR IMMUNIZATION FOR

25

COVID-19 EXCEPT IN CERTAIN CONDITIONS;

26

AND TO DECLARE AN EMERGENCY

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

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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:

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(a)(1) Except as otherwise provided by law, ~~ne~~ an infant or child

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shall not be admitted to a public or private school or childcare facility of

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this state ~~who~~ if he or she has not been age-appropriately immunized from

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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).

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

14  
15 Subchapter 6 – Governing Mandatory Vaccination for Coronavirus 2019  
16 (COVID-19)

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18 11-5-601. Definitions.

19 As used in this subchapter:

20 (1) “Coerce” means:

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

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

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

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

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

2 (A) Is employed by an employer; or

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

7 (3) "Employer" means:

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

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

14  
15 11-5-602. Governing mandatory vaccination for coronavirus 2019 (COVID-  
16 19).

17 (a) An employee may separate from his or her employment for good cause  
18 if the employer:

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

21 (2) Withholds the opportunity for career advancement from an  
22 employee who does not consent to receiving an immunization or vaccination for  
23 coronavirus 2019 (COVID-19); or

24 (3) Withholds a salary, wage increase, insurance, or insurance  
25 discounts from an employee who does not consent to receiving an immunization  
26 or vaccination for coronavirus 2019 (COVID-19).

27 (b) For purposes of unemployment laws, an employee establishes that he  
28 or she resigned for good cause connected with work if he or she self-  
29 certifies that he or she has a sincerely held personal belief against  
30 receiving an immunization or vaccination for coronavirus 2019 (COVID-19) and  
31 his or her employer require him or her to receive an immunization or  
32 vaccination for coronavirus 2019 (COVID-19).

33 11-5-603. Sunset.

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

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2           SECTION 3. Arkansas Code § 11-10-513, concerning unemployment  
3 disqualifications for voluntarily leaving employment, is amended to add an  
4 additional subsection to read as follows:

5           (d)(1) An employee who voluntarily leaves his or her work or is  
6 terminated by the employer as a result of an employer requirement to receive  
7 an immunization or vaccination for coronavirus 2019 (COVID-19) that violates  
8 the employee's sincerely held personal belief against receiving the  
9 immunization or vaccination for coronavirus 2019 (COVID-19) or of an  
10 employer's behavior under § 11-5-601 et seq. shall not be disqualified from  
11 the receipt of benefits under this chapter.

12           (2) An employee shall establish his or her sincerely held  
13 personal belief against receiving an immunization or vaccination for  
14 coronavirus 2019 (COVID-19) based on a certification provided to the Division  
15 of Workforce Services on a form prepared by the division for this purpose.

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17           SECTION 4. Arkansas Code Title 20, Chapter 7, Subchapter 1, is amended  
18 to add an additional section to read as follows:

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

21           (a) As used in this section:

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

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

29           (3) "School" means:

30                   (A) An elementary school;

31                   (B) A secondary school;

32                   (C) A kindergarten;

33                   (D) A college;

34                   (E) A university;

35                   (F) A proprietary school; or

36                   (G) A vocational school.

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

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

6 (2) As a condition of employment; or

7 (3) As a condition for obtaining a licensure, certificate, or  
8 permit.

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

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

16 (2) Is contradicted for a medical reason;

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

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

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

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

29 (e) An individual shall not be discriminated against or coerced in any  
30 way for refusing to receive a vaccination or immunization for coronavirus  
31 2019 (COVID-19).

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33 SECTION 5. Arkansas Code § 20-78-206(a)(2)(A), concerning the rules  
34 promulgated by the Division of Child Care and Early Childhood Education  
35 within the Childcare Facility Licensing Act, is amended to read as follows:

36 (2)(A)(i) However, ~~ne~~ a childcare facility shall not continue to

1 admit a child who has not been age-appropriately immunized from  
2 poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles,  
3 rubella, and any other diseases as designated by the State Board of Health  
4 within fifteen (15) program days after the child's original admission.

5 (ii)(a) The immunization shall be evidenced by a  
6 certificate of a licensed physician or a public health department  
7 acknowledging the immunization.

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

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

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

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20 SECTION 6. DO NOT CODIFY. ARKANSAS CODE REVISION COMMISSION  
21 AUTHORIZATION.

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

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25 SECTION 7. DO NOT CODIFY. TEMPORARY LANGUAGE. Conditional mandate  
26 for vaccination.

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

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

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

35 (b)(1) In the meeting described in subsection (a) of this section, the  
36 Senate Committee on Public Health, Welfare, and Labor and the House Committee

1 on Public Health, Welfare, and Labor shall make recommendations regarding  
2 vaccination of children.

3 (2) The recommendations shall be presented to the Legislative  
4 Council for approval.

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

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

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

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

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

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

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*/s/Lundstrum*