

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4
5 By: Representative Rye
6

A Bill

HOUSE BILL 1974

For An Act To Be Entitled

8 AN ACT TO AUTHORIZE THE GOVERNOR TO ISSUE AN
9 EXECUTIVE ORDER OR PROCLAMATION REQUIRING USE OF
10 CERTAIN PROTECTIONS IN PUBLIC SCHOOL DISTRICTS AND
11 OPEN ENROLLMENT PUBLIC CHARTER SCHOOLS WHERE SIX AND
12 FIVE-TENTHS PERCENT (6.5%) OF STUDENTS, FACULTY, AND
13 STAFF HAVE TESTED POSITIVE FOR CORONAVIRUS 2019
14 (COVID-19) IN THE PAST TWO (2) WEEKS; TO ALLOW A
15 PARENTS OR LEGAL GUARDIAN TO OPT OUT OF CERTAIN
16 PROTECTIONS FOR HIS OR HER CHILD; TO DECLARE AN
17 EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

21 TO AUTHORIZE THE GOVERNOR TO REQUIRE USE
22 OF CERTAIN PROTECTIONS IN SCHOOLS IF
23 CERTAIN REQUIREMENTS ARE MET; TO ALLOW A
24 PARENT OR LEGAL GUARDIAN TO OPT OUT OF
25 CERTAIN PROTECTIONS; AND TO DECLARE AN
26 EMERGENCY.

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

31 SECTION 1. Arkansas Code § 20-7-142(e), concerning the prohibition on
32 the mandatory use of face masks, face shields, or other face coverings, is
33 amended to read as follows:

34 (e) This section does not apply to a face covering requirement imposed
35 by:

36 (1) A private business;



- 1 (2) A state-owned or state-controlled healthcare facility;
- 2 (3) A facility operated by the Department of Corrections; ~~or~~
- 3 (4) A facility operated by the Division of Youth Services of the
- 4 Department of Human Services; or
- 5 (5) An executive order or proclamation issued by the Governor
- 6 under subsection (f) of this section.

7

8 SECTION 2. Arkansas Code § 20-7-142 is amended to add an additional

9 subsection to read as follows:

10 (f)(1) The Governor may issue an executive order or proclamation

11 requiring one (1) or more public school districts or open enrollment public

12 charter schools to require the use of face masks, face shields, or other face

13 coverings in school buildings, school buses, or other congregate educational

14 settings during times dedicated for academic purposes for a period not to

15 exceed thirty (30) days if:

16 (A) The public school districts or open enrollment public

17 charter schools are within the area of a state of disaster emergency related

18 to public health declared by the Governor under the Arkansas Emergency

19 Services Act of 1973, § 12-75-101, including without limitation a statewide

20 state of disaster emergency related to public health; and

21 (B) Within the past two (2) weeks, six and five-tenths

22 percent (6.5%) or more of the students, faculty, and staff of the public

23 school district or open enrollment public charter school have tested positive

24 for coronavirus 2019 (COVID-19).

25 (2) A student of a public school district or open enrollment

26 public charter school shall not be required to comply with a requirement

27 under subdivision (f)(1) of this section if his or her parent or legal

28 guardian provides written notice to the public school district or open

29 enrollment public charter school that the student shall not be required to

30 wear a face mask, face shield, or other face covering.

31 (3) A public school district or open enrollment public charter

32 school that incurs costs as the result of an executive order or proclamation

33 issued under this subsection may use, to the extent permitted, funds

34 distributed to the public school district or open enrollment public charter

35 school to pay for costs incurred in relation to the coronavirus 2019 (COVID-

36 19) pandemic, including without limitation coronavirus 2019 (COVID-19) relief

1 funds distributed from the American Rescue Plan Act of 2021, Pub. L. No. 117-
2 2.

3
4 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
5 General Assembly of the State of Arkansas that the Governor issued Executive
6 Order 21-14 to declare a statewide state of disaster emergency related to
7 public health to meet and mitigate the impact of coronavirus 2019 (COVID-19);
8 that the Delta variant of coronavirus 2019 (COVID-19) has infected thousands
9 of Arkansans in recent months; that children of certain ages are not eligible
10 to receive a coronavirus 2019 (COVID-19) vaccine; that the beginning of the
11 school year is scheduled to start this month across the state, placing
12 children at risk of contracting coronavirus 2019 (COVID-19); that in-person
13 instruction is the best method for educating children; and that this act is
14 immediately necessary to provide the Governor with flexibility to respond to
15 this public health emergency and to protect the children of this state in
16 public schools and open-enrollment public charter schools. Therefore, an
17 emergency is declared to exist, and this act being immediately necessary for
18 the preservation of the public peace, health, and safety shall become
19 effective on:

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

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

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