

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

A Bill

Call Item 1
SENATE BILL 5

5 By: Senator J. Hendren
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE AUTHORITY OF A SCHOOL BOARD OF
9 A PUBLIC SCHOOL DISTRICT OR GOVERNING BODY OF AN
10 OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL TO IMPLEMENT A
11 REQUIREMENT FOR FACE MASKS, FACE SHIELDS, OR OTHER
12 FACE COVERINGS; TO DECLARE AN EMERGENCY; AND FOR
13 OTHER PURPOSES.
14

Subtitle

15
16 CONCERNING THE AUTHORITY OF A SCHOOL
17 BOARD OF A PUBLIC SCHOOL DISTRICT OR A
18 GOVERNING BODY OF AN OPEN-ENROLLMENT
19 PUBLIC CHARTER SCHOOL TO IMPLEMENT A
20 REQUIREMENT FOR FACE COVERINGS; AND TO
21 DECLARE AN EMERGENCY.
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24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code Title 6, Chapter 1, Subchapter 1, is amended
28 to add an additional section to read as follows:

29 6-1-108. School face covering policy.

30 (a) As used in this section, "face mask, face shield, or other face
31 covering" means a form of personal protective equipment, including without
32 limitation a covering of the nose and mouth in order to protect against
33 infectious, contagious, and communicable diseases.

34 (b)(1) A school board of a public school district or a governing body
35 of an open-enrollment public charter school may implement a requirement to
36 wear a face mask, face shield, or other face covering to reduce the spread of



1 infectious, contagious, and communicable diseases.

2 (2) A requirement to wear a face mask, face shield, or other
3 face covering shall only be implemented in a school building, school bus, or
4 other congregate educational setting where children under twelve (12) years
5 of age may be present during times dedicated for academic purposes.

6 (c) A school board of a public school district or a governing body of
7 an open-enrollment public charter school shall review and reconsider any
8 requirement to wear a face mask, face shield, or other face covering every
9 sixty (60) days.

10
11 SECTION 2. Arkansas Code § 20-7-144 is amended to read as follows:

12 20-7-144. Prohibition on mandatory use of face mask, face shield, or
13 other face covering.

14 (a) As used in this section, "face mask, face shield, or other face
15 covering" means a form of personal protective equipment, including without
16 limitation a covering of the nose and mouth in order to protect against
17 infectious, contagious, and communicable diseases.

18 ~~(a)(b)~~ The General Assembly reserves the right to enact legislation
19 regarding the mandatory use of face masks, face shields, or other face
20 coverings.

21 ~~(b)(c)~~ A state agency or entity, a political subdivision of the state,
22 or a state or local official shall not mandate an individual in this state to
23 use a face mask, face shield, or other face covering.

24 ~~(e)(d)~~ The use of a face mask, face shield, or other face covering
25 shall not be a condition for entry, education, or services.

26 ~~(d)(e)~~ If a state agency or entity, a political subdivision of the
27 state, or a state or local official recommends that an individual in this
28 state use a face mask, face shield, or other face covering, a state agency or
29 entity, a political subdivision of the state, or a state or local official
30 shall provide notice that the recommendation is not mandatory.

31 ~~(e)(f)~~ This section does not apply to a face covering requirement
32 imposed by:

- 33 (1) A private business;
- 34 (2) A state-owned or state-controlled healthcare facility;
- 35 (3) A facility operated by the Department of Corrections; ~~or~~
- 36 (4) A facility operated by the Division of Youth Services; or

1 (5) A school board of a public school district or governing body
2 of an open-enrollment public charter school under § 6-1-108.

3
4 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
5 General Assembly of the State of Arkansas that the rapid rise in the cases of
6 coronavirus 2019 (COVID-19) poses a threat to the health and safety of
7 children in this state who are under twelve (12) years of age; that the
8 current prevailing variant of coronavirus 2019 (COVID-19), known as the Delta
9 variant, is more contagious than previous strains of coronavirus 2019 (COVID-
10 19); that currently, children under twelve (12) years of age are not eligible
11 to receive a coronavirus 2019 (COVID-19) vaccine to protect against
12 coronavirus 2019 (COVID-19); that the start of the school year is imminent;
13 and that this act is immediately necessary to provide local school boards
14 with flexibility to achieve maximum protection for children under twelve (12)
15 years of age receiving in-person instruction. Therefore, an emergency is
16 declared to exist, and this act being immediately necessary for the
17 preservation of the public peace, health, and safety shall become effective
18 on:

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

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

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