

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

# A Bill

SENATE BILL 739

5 By: Senators K. Hammer, B. Ballinger  
6 By: Representatives Bryant, Haak  
7

## For An Act To Be Entitled

9 AN ACT CONCERNING EMPLOYMENT ISSUES RELATED TO  
10 CORONAVIRUS 2019 (COVID-19); TO PROVIDE EMPLOYEE  
11 EXEMPTIONS FROM FEDERAL MANDATES AND EMPLOYER  
12 MANDATES RELATED TO CORONAVIRUS 2019 (COVID-19); TO  
13 AUTHORIZE UNEMPLOYMENT BENEFITS FOR AN INDIVIDUAL  
14 TERMINATED DUE TO A REFUSAL TO BE VACCINATED AGAINST  
15 CORONAVIRUS 2019 (COVID-19); TO DECLARE AN EMERGENCY;  
16 AND FOR OTHER PURPOSES.  
17  
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## Subtitle

19 TO PROVIDE EMPLOYEE EXEMPTIONS FROM  
20 FEDERAL MANDATES AND EMPLOYER MANDATES  
21 RELATED TO CORONAVIRUS 2019 (COVID-19);  
22 TO AUTHORIZE UNEMPLOYMENT BENEFITS; AND  
23 TO DECLARE AN EMERGENCY.  
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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29 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

30 (a) The General Assembly finds that:

31 (1) The United States Government is mandating that employers  
32 take actions related to coronavirus 2019 (COVID-19) vaccinations, including  
33 forcing an employee to be vaccinated against the employee's will;

34 (2) Vaccination mandates are an overreach of authority;

35 (3) Many employers and employees in Arkansas will soon be  
36 subject to this vaccination mandate; and



1           (4) Arkansas employees need to be protected from this type of  
2 overreach.

3           (b) The General Assembly intends for this act to:

4           (1) Protect employees in Arkansas from impending terminations  
5 due to vaccination mandates; and

6           (2) Create the ability for funding to be available to assist  
7 employees in Arkansas with the costs associated with testing related to the  
8 vaccination mandate through the methods provided in this act, including  
9 without limitation coronavirus 2019 (COVID-19) relief funds distributed from  
10 the American Rescue Plan Act of 2021, Pub. L. No. 117-2.

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12           SECTION 2. Arkansas Code Title 11, Chapter 5, Subchapter 1, is amended  
13 to add an additional section to read as follows:

14           11-5-118. Exemption for employees from mandates related to coronavirus  
15 2019 (COVID-19).

16           (a) An employer that requires or is mandated to require treatment for  
17 coronavirus 2019 (COVID-19) or its variants, including without limitation a  
18 vaccination or immunization, for its employees shall provide a specific  
19 exemption process.

20           (b) The specific exemption process shall include options that allow  
21 the employee to produce either:

22           (1)(A) A negative antigen detection test result or molecular  
23 diagnostic test result no more than one (1) time per week showing that the  
24 employee is not positive for coronavirus 2019 (COVID-19).

25           (B) An employee who has been exposed to an individual who  
26 has tested positive for coronavirus 2019 (COVID-19) may be tested more than  
27 one (1) time per week; or

28           (2) Proof of the presence of antibodies or T cell response for  
29 the virus that causes coronavirus 2019 (COVID-19) on an annual basis from a  
30 licensed healthcare provider through a serological test.

31           (c)(1) If multiple proven test processes are available to an employee  
32 under subsection (b) of this section, the employee may choose which test to  
33 take.

34           (2) The employee may provide test results obtained outside of  
35 the employer or a licensed healthcare provider if the test meets the  
36 guidelines contained within the Policy for Coronavirus Disease-2019 Tests

1 During the Public Health Emergency (Revised) issued by the United States  
2 Department of Health and Human Services Food and Drug Administration Center  
3 for Devices and Radiological Health.

4 (3) The cost of the testing shall be covered:

5 (A) Through the employee’s health benefit plan; or

6 (B) If coverage is not provided under subdivision  
7 (c)(3)(A) of this section, through any state or federal funding made  
8 available, including without limitation coronavirus 2019 (COVID-19) relief  
9 funds distributed from the American Rescue Plan Act of 2021, Pub. L. No. 117-  
10 2.

11 (d) An employer shall provide the specific exemption process required  
12 under this section in addition to any other exemptions offered by the  
13 employer.

14 (e) If an employee complies with the requirements of the specific  
15 exemption process related to coronavirus 2019 (COVID-19) as required by this  
16 section, the employee shall not be terminated for mandates related to  
17 coronavirus 2019 (COVID-19).

18 (f) Nothing in this section should be interpreted to modify any other  
19 agreements between the employer and employee or to amend or affect the  
20 employment-at-will doctrine, whether written or otherwise.

21 (g) The Department of Finance and Administration shall establish rules  
22 regarding the method of distribution of coronavirus 2019 (COVID-19) relief  
23 funds from the American Rescue Plan Act of 2021, Pub. L. No. 117-2, to  
24 employees and employers to cover the cost of testing, to include without  
25 limitation the:

26 (1) Timely distribution of funds to recipients within thirty  
27 (30) days;

28 (2) Establishment of an option for distribution to an employer  
29 that chooses to receive funds for disbursement to employees; and

30 (3) Verification and method of authentication of receipts that  
31 shall meet legislative auditing requirements, including without limitation  
32 the development of forms.

33 (h) The department shall report to the Legislative Council on a  
34 monthly basis on the disbursement of funds under this section.

35 (i) If an employee is terminated due to the employer’s violation of  
36 this section, the employee may be eligible for unemployment benefits in

1 addition to any other remedy available to the employee.

2 (j) This section shall expire on July 31, 2023, unless extended by the  
3 General Assembly.

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5 SECTION 3. Arkansas Code § 11-10-514, concerning disqualification for  
6 unemployment benefits generally due to discharge for misconduct, is amended  
7 to add an additional subsection to read as follows:

8 (d) An individual shall not be disqualified for benefits if he or she  
9 is terminated solely due to a refusal to be vaccinated against coronavirus  
10 2019 (COVID-19) or its variants.

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12 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
13 General Assembly of the State of Arkansas that mandates forcing actions  
14 related to coronavirus 2019 (COVID-19) vaccinations are an overreach of  
15 authority; that vaccination mandates will be imposed on many employers and  
16 employees in Arkansas; that employees are facing impending terminations  
17 related to exercising their rights to refuse a vaccination; and that this act  
18 is immediately necessary to protect the people of Arkansas from this type of  
19 overreach. Therefore, an emergency is declared to exist, and this act being  
20 immediately necessary for the preservation of the public peace, health, and  
21 safety shall become effective on:

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

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

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